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A1-23

PROPERTY:

ITS ORIGIN AND DEVELOPMENT.

BY

CH. LETOURNEAU,

GENERAL SECRETARY TO THE ANTHROPOLOGICAL SOCIETY OF PARIS,
AND PROFESSOR IN THE SCHOOL OF ANTHROPOLOGY.

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PREFACE.

MY inspiration for this book, as for earlier volumes, has been drawn from that fruitful method which alone, I believe, can throw light upon sociological origins: I speak of the ethnographic method, which consists in looking upon existing inferior races as living representatives of our primitive ancestors. I am not here concerned to justify this method of treatment. It is the very basis of evolutionary sociology, since it allows us to study *de visu* the series of social stages swallowed up in the gulf of the past. By its help the most distant ages rise again in flesh and blood; by the most scientific of incantations the past becomes the present, and the observer can simultaneously criticise the successive phases through which civilised peoples have taken chronological cycles to pass. Whatever fresh sociological question may be approached, it thus becomes possible to study all its historic and prehistoric links, to embrace, at a glance, the slow strivings of humanity, and call up a spectacle of striking interest.

The evolution of the right of property, the subject of the present work, can, thanks to the ethnographic method, be followed step by step, and the lessons to be derived from that examination are extremely important. The right of property is the great social mainspring; it is the giant whom primitive races imagined as crouching beneath volcanoes, and causing earthquakes by every movement. No great political revolution but is correlated with some modification of the right of property; no metamorphosis of this right which does not bring with it a political transformation.

In truth, we are here in presence of a powerful instinct, one springing from the very bowels of humanity. I have endeavoured to show that the desire to appropriate is simply one of the manifestations of the instinct of self-preservation, a thing imperious and tyrannical, as are all primordial impulses. But it would be a mistake to conclude from this that the instinct of property cannot be ennobled and idealised. From the point of view of perfectibility, it may be compared with the sentiment of love, capable of inspiring the sublimest devotion, and yet with no other physiological basis than animal rut. The instinct of property, like that of sex, becomes poetic as it is tinged with altruism.

But, as will be seen in the following pages, there seems to be a sort of moral contradiction between the forward march of civilisations and the gradual metamorphosis of the right of property, since this right begins in collectivism and tends towards individualism. Yet primitive man is far from being endowed with refined feeling. He is, however, weak, very poorly armed to carry on his struggle for existence in isolation, and that he may victoriously resist the hostile and injurious influences that assail him from every quarter, he must unite himself closely with others in little groups: union is strength. Thanks to this needful and salutary solidarity, the ape-like man of the earlier ages was able to increase in numbers, intelligence, and morality. But when, after thousands of years of incessant effort, the battle was gained against the greater part of the dangers that had threatened his cradle, his ancient, ill-tamed, lower sentiments awoke, and a struggle took place between liberated egoism and the irksome solidarity of the first societies. Common property, with its thousand restraints, no longer sufficed an individual aspiring to possess property of his own, entirely to himself, which he had, according to the ancient formula, "the right to use and to abuse."

Such has indeed been the latest form of the right of property in all societies which have sufficiently evolved to reach it. Must we therefore conclude that this form is final and incapable of development? When they have finished this book, my readers will, I hope, be persuaded ot the contrary. In fact, in all civilised societies which have preceded our own, the absolute supremacy of the unrestrained and selfish right of private property has been the forerunner of decadence, the main cause of ruin. A more enlightened humanity, having at last succeeded in creating sociological science, may, we would believe, avoid the rock whereon Athens and Rome were shipwrecked. It will understand that the war of each against all and all against each cannot be a sufficiently solid social foundation; it will perceive that, for the sake of the common safety, it is urgent to idealise the right of property; not, of course, by slavishly copying institutions which their own imperfections have destroyed, but by replacing the licence of the selfish right of property by an organisation which, whilst it is altruistic, is also reasonable, scientific, upholding without annihilating the individual, leaving his freedom and his initiative unfettered.

The debate, or rather conflict, has already begun; the new world is striving against the old. What will be the issue of the conflict? I am amongst those who have faith in the future.

CH. LETOURNEAU.

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PROPERTY: ITS ORIGIN AND DEVELOPMENT.

PART I.

CHAPTER I.

PROPERTY AMONGST ANIMALS.

I. *The Instinct of Property.*—Its biological root—Its genesis—It is generally limited amongst animals—*Res mancipi.*

II. *Property amongst Animals.*—Two sorts of temporary property—Territorial property amongst birds, aurochs, dogs, monkeys, lions, savages.

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V. *Robbery and Jealousy.*—The taste for robbery derived from the proprietary instinct—Robbery amongst ants and bees—Robbery amongst ravens, amongst dogs—Avarice and envy, corollaries from the instinct of appropriation—Genesis of jealousy—Jealousy in the dog and in Othello.

I. *The Instinct of Property.*

Before entering upon the study of the various forms and transformations of property in animal and human societies, it will not be useless to go back to the actual origin of the instinct of property itself. An instinct it certainly is, an innate and ruling propensity. Amongst mankind it has been the great factor in history; before it religion has bent submissive; around it societies have been organised; by it the greater part of codes has been dictated; by it empires have been built up and destroyed. Finally, animals themselves, at least intelligent animals, whatever their zoological type, obey it exactly as do men.

Now when a propensity assumes so universal a character, we may be very sure that it has its root in actual biological necessities, in the depths of organic existence. Indeed, the instinct of property is but one of the manifestations of the most primordial of needs, the need of self-preservation, of existing, and securing existence to offspring. The banquet of nature is very irregular and sometimes very niggardly; the guests are numerous, hungry, and often brutal. Yet, under pain of death, a place must be gained there, defended, and, as far as possible, retained, for continually recurring needs must constantly be satisfied. The severity of the struggle for existence may be greater or less, but it goes on without a truce; therefore the more intelligent the organised being, whether man or animal, the more he takes thought for the future, the more he tries, by securing some sort of property, to reduce the element of chance in his life. In developed nervous centres, whether of a man or of a bee, the incidents of life leave a lasting imprint; a battle fought, a danger encountered, a painful effort made to obtain food or shelter, are written upon the memory and survive there. If an individual has one day succeeded, with great difficulty, in gaining provisions or a covert, he naturally desires more extensive appropriation, sustenance exempt from risk, a sure and permanent lodging. Upon this his mind perpetually dwells, and, according to the measure of his capacities, he procures these precious possessions, this security against misfortune; he becomes a proprietor. But this may be done in various ways, sometimes selfishly, in isolation, if the individual is gifted enough or well enough armed with force or cunning to suffice unto himself; sometimes collectively, if those concerned are sufficiently intelligent, sufficiently sociable, to supplement their native feebleness by combining, by creating a powerful cluster through the union of small individual energies. These two very different methods of understanding property are found in the animal kingdom, and each of them makes its own mark upon the manners, tendencies, and mentality of the species.

Even putting on one side the most inferior animal species,—those amongst whom psychic life is still a rough outline, a mere glimmer,—it may be said that in the animal kingdom the instinct of property is generally very short-sighted. Most animals live from day to day without any prevision of the future. They seize all that falls to their teeth, their beaks, or their claws, all that they esteem edible, and consume it immediately. For them property is simply what they can seize and devour. We shall find more than one instance of the same gross conception of property amongst men. Primitive Rome even allowed it a large place in her code; she held it as *res mancipi* (*manus capere*), property on which the hand might light. Later I shall have to speak of this in some detail.

II. *Property amongst Animals.*

This sort of temporary property, which they seize as chance offers and consume or destroy on the spot, is the only kind known to those less developed animals which are incapable of foresight, and also to powerful animals whose almost irresistible strength dispenses with the necessity of thought for the future. The larger felines—the lion and tiger, for instance—have no need to store up provisions; so many other mammals wandering in the forest or open country are their easy prey. In like manner the elephant, by reason of his enormous strength and his herbivorous and folivorous tastes, can sleep each night without anxiety for the morrow. The tropical forest is his inexhaustible larder; he is not compelled to economise. He is a great noble whose opulence permits him to be extravagant. Merely for one meal the African elephant (*Elephas Africanus*) breaks down and uproots a large number of trees and shrubs, strews the forest with prostrate trunks, so that, like an epicure, he may relish the flavour of a few delicious branches.[1] Yet the elephant ranks amongst the most intelligent, the most sensible mammals; he is the god Ganesa, the emblem of wisdom in Hindoo mythology; but at the same time he is a potentate rarely subjected to the harsh lessons of want. We know only too well that, amongst mankind, the rich and powerful (they are practically one and the same) behave exactly like this pachydermatous aristocrat.

However, there is a somewhat higher kind of property known to many animals, and desired and defended by them: landed property to wit. The lion lives alone, or at most in a temporary family; but he needs a vast hunting-ground. This territory must be well furnished with game, and he chooses it himself. Having done so, he will allow no intruder to poach there. He has fixed its boundaries on his own leonine authority. If another animal of his own species ventures to infringe upon the domain he has taken for himself, he protests, lays a complaint against the invader after his own fashion, and, if the latter does not attend to him, has recourse to the *ultima ratio* of kings and lions, a battle, the issue of which decides the judicial contest.[2]

This claim to the ownership of a certain ascertained territory is common amongst animals. In bird families it is a constant, almost a universal fact. Amongst them the boundaries of the district are more strictly determined, and are defended, *unguibus et rostro*, more energetically, when the proprietor, or would-be proprietor, is a flesh-feeder or a fisher; for then the domain is a hunting-ground, absolutely necessary to the maintenance of life. When it happens that the preserves and fisheries are very prolific, their winged owner does not maintain his rights so rigorously; his watchfulness relaxes, for he no longer feels the prick of need.[3] This is natural; yet we know that it does not always obtain

[1] Houzeau, *Facultés mentales des animaux*, i. 263.
[2] *Ibid.*, i. 194.
[3] Espinas, *Sociétés animales*, 439.

in our human societies, where the fiery zeal for accumulation often strangely surpasses the limits of necessity.

Neither is it rare amongst mammals to claim a territory in virtue of individual, family, or collective property in it. The aurochs, preserved under the special protection of the Emperor of Russia, in the Polish forest of Bialoviza, live there in herds, excepting a few misanthropic or unsociable individuals who wander alone. But the same herds always frequent the same woodland districts, usually in the neighbourhood of some running water, and this division of the forest soil is so strict that the keepers charged with the preservation of the aurochs have been able to distribute between them the care of the various small groups.[1]

The wandering dogs of Egypt have similar customs; each pack chooses a habitat, and, says an eye-witness, "Woe to the dog who strays into a neighbour's territory. Many times I have seen the other dogs fall upon the wretch and tear him."[2] Thus again, the pariah dogs of India quarter themselves in the part of the town where they are born. Each of them has his particular district, his own country, which he carefully clears of intruders, while for his own part he never crosses its boundaries.[3]

Monkeys behave in much the same way. Thus the cercopithecus lives in troops in the forests, under the government of the old males, and each horde claims a special district for its own use, wherein no individuals from another horde are tolerated.

Now this claim to the possession of a given territory is the very foundation, the first origin of property in the soil amongst human societies. More than once in the following chapters I shall have to speak of other hunting-grounds, the exclusive enjoyment of which is claimed by savage tribes, who conceive that they have a right to forbid access thereto by neighbouring and rival communities, and punish violation of the boundaries with death. I mention in passing these instructive analogies between animals and men; they throw a singular light upon the origin of the right and instinct of property. It is indeed extremely interesting to find the rough but perfectly recognisable rudiments of our two

[1] Franklin, *Vie des animaux*, 199.

[2] Brehm, quoting Hacklander.

[3] Franklin, *loc. cit.*, i. 151.

principal forms of property, real and personal, amongst numerous animal species, many of which are possessed of small intelligence.

III. *Property in Dwellings.*

On the other hand, and more human still, a good many animal species have a very lively hankering after property in dwellings. But this propensity is satisfied with more or less industry and intelligence, according to the species. The less ingenious animals put up with a purely natural lodging, cave, rock-shelter, or what not. The brown bear, for example, likes to take up his abode in a natural cavern, and there live alone, like a morose philosopher. Other and more industrious animals make their own caves or dig themselves burrows.

The situation of these subterranean dwellings is not chosen haphazard. Thus the fox, before establishing himself, visits and explores the neighbourhood, searches every excavation to make sure that it hides neither snare nor foe. His inquiry finished, he goes on to install himself, digging rooms and passages, and contriving a multiplicity of exits, which must be far from each other, and at the same time very distant from the centre of the habitation.[1] The badger does the same, and almost all rodents have more or less complicated burrows. Those of our wild rabbits are known to every one as models of such abodes. As G. Leroy[2] remarks, rabbits certainly have the idea of property, for the same families retain hereditary occupation of the same burrows, merely enlarging them as their numbers increase, exactly as the Pueblo Indians, in Central America, add supplementary dwellings to their phalansteries. The founders of these underground cities did not decide lightly; they were careful in the first place to start the burrow in a spot that was secure from inundations, to arrange the entrance in such a way as to mask the interior of the abode, and so forth.

It is very probably the inclination to hoard, the desire to put their reserves of food in safety, which suggested to the rodents the idea of thus digging themselves habitations. Nevertheless this inclination may also be observed, though in a very rudimentary form, amongst our domestic dogs, and amongst many flesh-feeders, who, being neither architects nor purveyors, content themselves, when they possess food in excess, with making a hole in the ground, and there depositing their surplus provisions, their hoard, hiding the deposit with the rubbish they pile over it. The more skilful rodents dig real warehouses. Thus the hamster (*Mus cricetus*) has learned to dig itself two subterranean excavations. One is its sleeping-room, which is strewn with dry grass, and kept perfectly clean. The other is used simply as a storehouse for victuals. Amongst the rodents these reserves of provisions are often considerable. They have taken long to accumulate, and must serve to sustain the animal during the whole of the inclement season.[1] This is forethought for a distant future.

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[1] Franklin, *loc. cit.*, i. 131.

[2] *Lettres sur les animaux*, 48.

Like many animals, our prehistoric ancestors were troglodytes. In the earliest times they contended with wild beasts for the use of natural caverns; then, like the rodents, they conceived the idea of digging artificial ones, and finally, of constructing huts. However, this last characteristic is by no means peculiar to man. The huts of beavers, for instance, are certainly very superior, from an architectural point of view, to those of many Fuegians. Every one has read the description of beaver villages, of their dam, their circular lodges with a single entrance, ending in a dome, and containing a residential chamber and a room for provisions; the whole somewhat similar to the huts of African negroes. Each beaver-lodge shelters a family, and the whole group constitute an actual tribe. The skilful construction of these lodges, and the great thickness of their walls, are well known.[2] Yet the beaver is an animal of only medium intelligence. It often happens, amongst animals as amongst men, that a special aptitude develops singly, and becomes the more striking in consequence of the torpidity or absence of the others.

In speaking of what may be called "house property" amongst animals, I have hitherto borrowed my examples from the class of mammals; but still more curious facts of the same nature may be observed in other classes of the animal kingdom. Many birds are also possessed with the idea of hoarding, and all are more or less able architects. The owl (*Strix otus*) buries its surplus provisions, like the dog. The shrike, or butcher-bird (*Lanius collaris*), feeds upon grasshoppers, mice, and small birds. Does a hunting expedition supply him superabundantly? He then hangs or rather impales his victims, where he can find them later, on the thorns of bushes or on twigs.[1] A Californian woodpecker (*Melanerpes formicivorus*) bores holes in trees wherein to place his booty. In autumn he may be seen pecking away at pines and oaks, and slipping acorns into the cavities he has made.[2] Jays also lay up provisions. The magpie, polyborus, anomalocorax, ptylonorhyncus, and chlamydera hide and treasure up certain objects, ornamental luxuries, without apparent use, but which they seem to value highly.[3]

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[1] Houzeau, *Facultés mentales*, etc., i. 262.

[2] Franklin, *loc. cit.*, ii. 260, 261.—Espinas, *Sociétés animales*, 454.

Everybody knows how much the constructive instinct is developed amongst birds, how varied are the forms of their nests, and with what heroism they defend these family dwellings. Though nests are by no means permanent habitations, and are specially constructed for the rearing of young, they none the less constitute actual property, sometimes doing duty for a series of years. Thus old ravens return year after year to the same nest, and, as they form monogamous unions, if one of the pair happens to die, the surviving partner, after contracting a new alliance, still brings his companion to the ancient abode.[4]

This attachment to home is not peculiar to ravens. Numbers of birds merely repair their nests, and regularly return there every year, until some catastrophe drives them away for ever.[5]

Common dwellings, family property, analogous to the "long houses" of the Iroquois clans and the phalansteries of the Central American Pueblos, also exist amongst birds. By way of example, I will mention rooks and jackdaws, who build their nests in families, the former in trees, the latter at the top of ancient edifices.

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[1] Houzeau, *Facultés mentales*, etc., i. 262.

[2] *Ibid.*, i. 263.

[3] Espinas, *loc. cit.*, 440.

[4] Audubon, *Scènes de la nature*, i. 226.

[5] *Ibid.*, ii. 182.

These birds also go forth to seek their food in common; and in common they regain their nightly resting-place. Esculent swallows do much more than this; their sense of property has become collective, and each of them works indifferently at all the nests of the tribe, or at least at those near his own. In like manner, the bird known as the *Social Republican* lives in groups and constructs a mass of nests, covered by a common roof.[1] It is extremely important for general sociology to note, amongst animals, these instances of collective property, of which such numerous examples are found amongst all races of men. They are so many fresh proofs, amongst legions of others, attesting the close relation between the *genus homo* and the rest of the animal kingdom.

Usually the constructions of birds are principally intended to shelter the eggs and young, whether these constructions be the property of a family or of a clan. There are, however, exceptions to this rule; amongst others the bower framed for courting purposes by the curious *Amblyornis inornata*, a bird of paradise which has become famous since O. Beccari, an Italian traveller, met with it in New Guinea. This bird's abode of love is a conical hut. Before the door the architect lays out a lawn carpeted with moss, its greenness thrown into relief by various bright-coloured objects which he strews about: berries, seeds, flowers, pebbles, shells, and such like. Moreover, he is very careful to replace withered flowers by fresh ones.[2] These curious constructions are solid and durable; they are probably used by various birds for several years. The young are not reared there; these houses are intended exclusively for courtship.

IV. *Social Property of Ants and Bees.*

The rapid glance we have just cast upon the habits of certain vertebrate animals has shown us a highly-developed instinct of property, manifesting itself in different ways according to the degree of sociability or intelligence attained by the species; and under this head we have been able to bring forward some instructive analogies between animals and men. But the sociology of the invertebrata is perhaps more fertile still in its teaching, for, from our present point of view, their most intelligent species greatly surpass the highest mammals. This is because the zoological hierarchy established by naturalists is only founded upon general characteristics, which by no means hinders the most developed species of a taxonomically inferior type from occasionally surpassing in intelligence the least gifted species of another type, whose general organisation is superior.

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[1] Espinas, *loc. cit.*, 489.

[2] O. Beccari, *Annali del Museo civico di storia naturale di Genova*, vol. ix., fasc. 3-4, 1877.

Thus, considered as to their social aptitudes and their manner of understanding property, ants and bees not only eclipse all other animals, but even leave the inferior human races far behind; for these intelligent insects are the "primates" of the invertebrata.

Here I have only to occupy myself with their way of understanding property. It is first of all important to remark that, if climate and surrounding circumstances are favourable, ants possess in a high degree the fundamental idea of property, that of hoarding. This idea is wanting amongst the ants of our northern lands, simply because, as they become torpid in winter, they have no need to lay in useless provisions. But *Atta providens* of Hindostan, which preserves its vitality throughout the year, knows how to construct a storehouse during the dry weather, and there heaps up, against the rainy season, a graminaceous plant of the genus *panicum*, exactly as we preserve corn in our granaries.[1] The agricultural ant, observed in Texas by Dr. Linceum, goes much further; each year she clears a circular patch before her ant-hill, sows a graminaceous plant there, and later harvests it, binding it up into a kind of sheaves, which she carries into her granaries. After this, she picks out the seeds from the husks, and, when the stored-up seeds are damp, is even careful to bring them out from time to time, to dry in the sun, afterwards taking them in again.[2] Now we know that primitive or, which is the same thing, savage humanity was, and still is, a stranger to agriculture, which supposes a long-sighted prevision, a care for the future, whereof beings of small intelligence are incapable. Ants possess also in a high degree the feeling for property in land, in the districts of which their city is the centre; they even go so far as to fight furious battles, not only to defend this little fatherland, but to enlarge its borders. Above all, they have that love for their dwelling-place that we call the love of home. I need not here describe the complicated arrangements of the common habitations of ants. Each is guarded with jealous care by the army of workers. In case of attack, and indeed every evening, they barricade its doors with earth or small bits of wood. Sometimes the workers even play the part of living bulwarks, stopping up the exits with their heads.[1] So keen is the desire for property amongst ants, that they willingly satisfy it in a culpable manner. They are continually coveting their neighbours' goods, and their warlike pillaging expeditions are on a huge scale.

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[1] Houzeau, *Facultés mentales des animaux*, i. 261.

[2] L. Büchner, *Vie psychique des bêtes*, 121.

Almost as unreasonable on this head as men, they are not content bravely to defend their own country, but must needs be always ready to invade their neighbours. Yet in a certain way the raids of ants are more "humane" than ours. After all, they have no quarrel but with the cattle and pupæ of rival republics; they do not appear to like killing for killing's sake, and do not attempt the lives of their adversaries unless these have the bad taste to defend their belongings, and the hope of their republic, with too much energy. Pillage is enough for these utilitarian amazons. They have no pleasure in slaughter, unless (a trait common to them and to mankind) inferior races are in the case, races entirely foreign and contemptible in their eyes, whose pupæ they only steal to devour. Under these circumstances they slay without mercy.[2] After a victory, the conquerors are not always content with sacking the vanquished city; sometimes they retain possession, and use it as a sort of palace of delight. Forel mentions a colony of *Formica sanguinea* who thus owned three nests, two being conquests, and inhabited them by turns.

[1] P. Huber, *Fourmis indigènes*, 197.—Büchner, *Vie psychique des bêtes*, 123.

[2] Büchner, *loc. cit.*, 229.

Such resolute property owners could not stop half-way, and accordingly ant societies have invented two kinds of property, which were long believed peculiar to man: I mean domestic animals and slaves. We were astonished when, at the Anthropological Society, twenty years ago, our fellow-countryman, Lespès, told us of the blind coleoptera, known as clavigers, nourished by ants in their dwellings out of pure greediness, and carefully fed that they may be milked or rather sucked afterwards.[1] We owe another discovery of the same sort to P. Huber—*i.e.*, that of the aphides, fed, cared for, guarded, even reared, that they may serve the ants as cattle, milch cows, and, at need, butcher's meat. Without dwelling over long upon these curious facts, of which the mention is obviously sufficient, I will, however, remind the reader that certain ants collect the eggs of the oak-aphis, stack them in cells, and carefully watch over their hatching;[2] that they sometimes construct actual stables for these cattle, where they can be securely milked;[3] that they carry the aphides, exercise them, follow them solicitously; that they quarrel for them; that nest steals them from nest, as pupæ are stolen; finally, that in time of scarcity they devour them.[4]

Intelligent animals, who are always architects, sometimes agriculturists, sometimes cattle-keepers, that is to say who are compelled to do hard work, could not fail to invent slavery. Ants, we know, have done so; certain warlike species, *Formica sanguinea*, and *Formica rufescens*, have subjugated a negro species, *Formica fusca.* Here again ants, whilst behaving like men, have never allowed themselves the abuses of force to which men are accustomed. They never enslave adult ants;[5] they seize upon the pupæ, bring up the young, treat them gently, and thus make them into docile and zealous servants. These slave ants, who have never known the city whence they sprang, do all the inferior work of the community with eager alacrity; care for the larvæ, carry their mistresses, feed them, barricade the approaches in case of siege, receive the victorious amazons with joy when they return from a fruitful expedition, and relieve them of the pupæ captured in the raid.[1] They are so heartily at one with their owners that they venture sometimes, not without peril to themselves, to molest them when they return from an expedition with empty mandibles.[2] As for the slaves, their labour is purely domestic; in some English ant-hills they do not even come out of the nest, in Switzerland, however, they go aphis-hunting,[3] inferior work, scorned by the warrior ants.[4] But these latter always consider the black, or rather ash-coloured ants, who serve them, as their property, and though habitually they lazily cause themselves to be carried by their slaves, they in their turn do not disdain to carry their servants for safety's sake when changing house, or, in case of a siege, to drag them hastily down into the depths of the subterranean dwelling. Such, at least, are the proceedings of *Formica sanguinea.*[5]

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[1] *Bulletins de la Société d'Anthropologie.*

[2] P. Huber, *Fourmis indigènes*, 185.

[3] *Ibid.*, 177.

[4] *Ibid.*, 171-173.

[5] *Ibid.*, 298, 195.

This system of slavery has certainly lasted for many centuries in the ant world, but it has not existed always, as is attested by certain survivals. Thus, amongst some species, that pampered and revered progenitrix, the queen, participates in the labours of the community, exactly like a humble worker. Moreover, after the nuptial flights from an ant-hill, some females may be seen digging themselves underground nests and thus spontaneously founding new colonies.[6]

Now these abnormal facts suffice to indicate that ants, like men, have evolved; that formally, when their societies originated, no hierarchy, no castes as yet existed there, and that, in those far-off times, the obligation to work must have been general for every citizeness of the republic.

In the course of ages, ant societies, like those of men, have been perfected; their structure has become more complicated, and in some of their cities, occupations looked upon as inferior have devolved upon slaves of a black race. It is interesting to note what has been the effect of this aristocratic organisation upon the ruling and idle classes of the ant-hill. It has been so lamentable that even the physical formation of the slave-owners has degenerated. Amongst the amazon ants (*Formica* or *Polyergus rufescens*), who not only do not demean themselves by working, but even have the food put into their mouths by slaves, the jaws have become elongated, narrow and powerful, and project in sharp points, very suitable for piercing an adversary's head, but unfit to lay hold of food. Without the help of their slaves, these distinguished ants would die of inanition. When one of these amazons is hungry, she merely taps with her antennæ upon the head of a slave, who thereupon injects some food from her own mouth into that of her mistress. These ants are fine ladies, and good for nothing, except slaying their foes. They are so aristocratic that they no longer know how to construct their nest, or rear their larvæ, or feed themselves. Huber, in his celebrated experiment, shut up thirty amazon ants with their larvæ, their pupæ, and abundance of provisions; but the captives did not know how to feed themselves, they were so well-bred; and most of them died of hunger. Then, amongst the survivors, the experimenter introduced one single black slave (*Formica fusca*), who set to work then and there, like the plebeian she was, fed and saved her exhausted mistresses, constructed cells, placed the larvæ in them; in a word, put everything to rights.[1] But what is perhaps still more curious, is that amongst certain species, idleness, prolonged during a sufficient series of generations, has ended by rendering the aristocratic ants unskilful even in the warlike exploits to which their life has been solely consecrated. Thus the *Strongylognathus testaceus*, says Forel, has become a sort of caricature of the amazon. She has preserved the bellicose instinct, but in her expeditions her courage is betrayed by her physical weakness; she exhausts herself in futile efforts to carry off the pupæ she has conquered, and would utterly fail, were it not for the aid of her slaves, who accompany her, and bear away the booty without any difficulty.[2] In the trade of war mere courage is not enough; there is also a necessity for muscles.

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[1] P. Huber, *Fourmis indigènes*, 196, 256, 298.

[2] Büchner, *loc. cit.*, 208.

[3] P. Huber, *loc. cit.*, 299.

[4] *Ibid.*, 205.

[5] *Ibid.*, 256, 257.

[6] Büchner, *loc. cit.*, 403, 404.

In citing these curious facts, familiar nowadays to every one who takes even a superficial interest in natural history, my sole object is to draw comparisons between human and animal nature, to point out their connection. Now in human societies we see the abuse of property, social parasitism producing, like organic parasitism, very analogous results to those that may be observed amongst animals. Parasitism, as is well known, is not uncommon in the animal kingdom, and its law has been very justly summed up by Espinas in these terms: "The effect of parasitism is a correlative diminution of vital power in the animal that submits to it, and of organic complexity in the animal that practises it. It is the antipodes of social life," he excellently remarks; "for this is characterised by mutual profit and improvement,"[1] and in support of his dictum he mentions some typical facts, notably the retrogression observed amongst certain lernæan crustaceans, who suddenly descend in the animal scale directly their parasitic phase begins.

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[1] P. Huber, *loc. cit.*, note.

[2] Büchner, *loc. cit.*, 233.

Organs and functions are atrophied by inactivity. This was one of the great laws upon which Lamarck based his transformist theory. I cannot, without wandering from my subject, instance here the numerous facts which demonstrate its truth in the animal kingdom.

We have just seen how this law is verified amongst the slave-holding ants, and we know that in human societies warrior and still more financial aristocracies fall more or less quickly victims to physical and mental retrogression, which must end in sterility and extinction. Effort—I mean continuous but not excessive effort—is a condition of existence and duration for man and beast.

My aim not being to give a lesson in natural history, but simply to point out the principal manifestations of the proprietary instinct amongst animals, I may confine myself to mentioning the other insects which, like ants, live in industrial republics. I will cite in passing the nests of termites, constructions rising four or five feet into the air, and containing myriads of rooms, arches, cupolas, and storehouses well-furnished with gums, resins, flour, seeds, fruits, etc. The *Termes mordax*, met with in the Soudan by the traveller Barth, lays up such an accumulation of seeds that the poor negroes can obtain their supplies therefrom. Thus the idea of keeping the common property safely, of putting the reserves of food in a secure place, is the principal reason for the existence of termites' nests.—The colonies and hives of bees are at least equally interesting, and I must certainly say a few words about them also. Every one knows how these intelligent insects cull nectar and pollen for their community; how the pollens are sorted and warehoused in cells constructed for the purpose; how other cells are filled with honey and furnished with lids, if their contents are a hoard, a supply in reserve; how much bees respect social property, the cells destined to provide for the daily consumption of the tribe always remaining open with impunity, without any citizeness taking therefrom more than is required to satisfy her need at the moment; and a great deal more of the same sort.

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[1] Espinas, *Sociétés animales*, 164.

The communal system is far from rare in human societies. I shall have to quote many examples of it; but never amongst mankind shall we find so absolute and complete an absorption of the individual by the social group as in the cities of ants and bees, where individual property has never, it seems, been even imagined. In these republics, what one citizeness has for herself belongs to all the others. Does a hungry bee meet one laden with booty returning to the city? She lightly taps her on the head with her antennæ, several times, and instantly the latter hastens fraternally to disgorge part of the nutriment provisionally received by her own stomach.[1] Ants proceed in the same way, but in addition, the ant thus sustained is very careful to show her gratitude. "The ant who feels the need of food," says P. Huber, "begins by tapping her two antennæ, with a very rapid movement, upon the antennæ of the ant from whom she expects succour. Immediately they may be seen approaching one another with open mouth and extended tongue, for the communication of the liquid which one passes to the other. During this operation, the ant who receives nourishment does not cease to caress the friend who is feeding her, continuing to move her antennæ with singular activity."[2] The collective system of property must have lasted amongst ants and bees for many thousands of years, for, apart from cases of demoralisation such as may, for

[1] Büchner, *loc. cit.*, 367.

[2] P. Huber, *Fourmis indigènes*, 159.

example, be produced amongst bees by giving them a taste for drunkenness, these intelligent insects show the most absolute deference and devotion to social property. Their primitive selfishness has broadened out into a collective or patriotic egoism.

But these very social species, with their more than Christian charity, have not reached this high degree of civilisation at one bound. In the ant and bee worlds, as in our own, there are savage peoples. There are still at the present time certain species of ants ignorant of the division of labour, carried so far amongst their civilised congeners. The benevolent sentiments, which the communal life of these insects is so well suited to develop, are not equally energetic in all ant-hills. There, as amongst ourselves, they are doubtless connected with the historical duration of the city. In some communities social duties are got through without any display of feeling; in others they are accomplished with urbanity and assiduous eagerness. P. Huber describes a nest of tawny ants where the most extraordinary harmony reigned. They were never tired of mutually offering one another food, caressing each other and carrying one another about in a friendly way.[1]

It is the same with bees. The longer the period of culture in the past of their race the more civilised they are; their division of labour is more complete, the architecture of their hives more skilful. No American bee, says Bates, has attained the high degree of architectural ability reached by the bees of Europe. Species may be found that are not yet redeemed from savagery, and it is the same amongst humble-bees and wasps. Moreover, the American melipon (*Melipona scutillaris*), and also the female of the mason bee (*Megachile muraria*), still remain in the elementary stages of comb architecture.

Even amongst the most civilised bees, the queen bears undeniable vestiges of the ancient days of equality upon her hind legs, in the shape of "baskets," indispensable to a worker in pollen-carrying; a formation which clearly attests the primitive baseness of her origin.

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[1] P. Huber, *Fourmis indigènes,* 153.

V. *Robbery and Jealousy.*

Without departing from my subject, I shall close this chapter by a few considerations connected with experimental psychology. The essential function of the nervous centres being, as is well known, to retain the impressions of actions performed, it must necessarily be that the manner of life creates instincts and habits; thus we have seen the sociable qualities developed amongst animals in proportion to the strictly communal nature of their property system. But once created, certain propensities may show themselves in different ways. The instincts of preservation and far-sighted prudence have had for corollary, as we have remarked, an inclination for property amongst very many animal species. But the propensity to appropriate, so praiseworthy when its object is the preservation of the individual, the family, or the group, easily degenerates into a less moral inclination, that for robbery, widely spread amongst animals, and, as we know, common enough amongst men.

Ants and bees, who show scrupulous respect for the social wealth of their own community, have no scruple at all in appropriating the riches of other cities, and the like doctrine regarding theft is also current in many little-civilised or uncivilised human societies. The whole life of certain species is spent in predatory raids. Bees do not appear to practise military marauding on a grand scale, like ants, but many of them shamelessly live upon petty larcenies committed individually at the expense of foreign hives. They may be seen slyly trying to cheat the vigilance of the sentinels, and slip into their neighbours' cities, that they may steal, and gorge themselves with the provisions there. Sometimes they even commit highway robbery, lying in wait in small bands near a strange hive, for the return of laden bees, and plundering them on the road. The sentinels of the hive, on their side, keep off foreign bees, denying them entrance into the city, and, if exasperated by attempts at robbery, even chase the prowlers and try to kill them.[1] In this bees imitate a great number of human societies, where robbery has seemed the greatest of crimes, expiable only by death.

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[1] Büchner, *loc. cit.*, 370, 389, 390.

Amongst animals nothing is commoner than piracy and robbery: they are the necessary consequences of the struggle for existence. The inclination to steal, exactly like that to hoard, springs from the instinct of appropriation. It is simply a socially harmful manifestation of it. The ravens, whom I have cited as jealous proprietors, maraud without scruple upon the property of other birds; they attack rooks' nests and carry off the young to give them to their own offspring for food.

Dogs possess the feeling and inclination for property to a large extent; in fact it is this which makes them useful as its faithful guardians; but for this very reason they have often a propensity to rob. And men having inculcated morality upon them on this head, they generally steal with a full consciousness of their misdoing, as is clearly shown by their attitude when caught in the act. But in their canine opinion robbery is only guilty when it is practised at their master's expense. Between themselves they are less particular, and the stronger has no scruple in seizing upon the bone that the weaker is gnawing.[1]

The instinct of appropriation, by the very closeness of its connection with that of preservation, easily engenders selfish passions and feelings: avarice, which is simply the hypertrophy of the inclination to hoard; envy, arising from the exacerbation of the proprietary appetite, maddened by covetous desire. It is also with the profound and powerful instinct of appropriation that must be connected the essence of a feeling violent as selfish, but too common amongst men and frequent amongst animals: I mean sexual jealousy, the genesis of which it seems to me easy enough to discover by studying it amongst animals, particularly dogs. In a savage state the dog, like all carnivora, had no other resource than the chase. Naturally he regarded as his property the prey he succeeded in capturing, and energetically defended it against the attempts of rivals who would ravish it from him. Even now it is not prudent to take a bone from "the friend of man," when he has it between his teeth. In such a case the

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[1] This is not always the case between dogs living in the same family. These often show considerable respect for each other's possessions.

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most pacific dogs often become fierce and fall back into barbarism. But this instinct of appropriation is not confined to the pittance doled out by the master. It is considerably enlarged in canine mentality, and embraces the flock, the house, the master himself, and the master's caresses. Dogs have often cruelly bitten children whom some one has ventured to caress in their presence. Others, of tenderer nature, have become melancholy and allowed themselves to die of hunger for the same reason.[1] Now these are the two principal forms of jealousy in man: jealousy which avenges itself, and jealousy which suffers. This jealousy, based on the instinct of property, is, as we know, that of primitive man, who makes no attempt to disguise it. In a foregoing work,[2] I have more than sufficiently established that in savage societies the wife seems to her husband a piece of property like any other, that her errors, her adulteries, are always punished, not in the name of outraged morality but in that of violated proprietorship.

Thus we hold both ends of the chain, and it is difficult not to recognise a mental echo of the rude instinct of appropriation at the bottom of our sexual jealousy, that gnawing and egotistical sentiment so rebellious to the most refined culture. When he is struggling in the pangs of jealousy, Shakespeare's Othello is in the right to exclaim, "Nature would not invest herself in such a shadowing passion without some instruction. . . . It is not words that shake me thus." (Act IV., Sc. i.) No, it is not words. It is a tyrannical because a primordial sentiment, and when, blinded by fury, by the "green-eyed monster," Othello smothers Desdemona, his passion proceeds, along the lengthened chain of ages and generations, from the bestial irritation obeyed by the wolf claiming his prey, the dog defending his dinner, and refusing to allow any encroachment upon their proprietary rights.

But enough. The facts I have just enumerated suffice to establish that the instinct of property is but one mode of the tyrannous instinct of self-preservation; and, on the other hand, that the varied sorts of appropriation observable in human societies are also to be found amongst animals, but in their case without varnish or disguise; which enables us easily to unravel the psychological motives of human thought, and is not without its uses in throwing light upon their deep-seated springs.

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[1] Espinas, *Sociétés animales*, 181.

[2] *The Evolution of Marriage.* Contemporary Science Series (Walter Scott).

CHAPTER II.

PROPERTY AMONGST PRIMITIVE HORDES AND TRIBES.

I. *Property and Political Organisation.*—Four stages of evolution.

II. *Property amongst Anarchic Hordes.*—Human races inferior to ants—Primitive savages in Borneo—The Veddahs of Ceylon—The Bushmans—Sociability of the Bushmans—The Fuegians—Property amongst Fuegians—Feelings of solidarity amongst Fuegians—No private property.

III. *Property in Australia.*—The Australian clan—Hunting-grounds—*Punctum saliens* of individual appropriation—Why articles of personal use are destroyed at the owner's death—Excessive regulation—Absence of the idea of hoarding—Regulation as to food amongst the Kurnai—Property in girls—Singular point of honour amongst Narrinyeri women—Confused relationships in the kindred clan—Girls collective property—Communism in Australia—Does private property exist in Australia?

IV. *Property amongst Animals and Primitive Men.*—Primitive man has less foresight than many animals—The gluttony of primitive man—Primitive solidarity—No artificial dwellings amongst certain primitive folk—Manufactured articles and private property.

I. *Property and Political Organisation.*

In approaching the vast subject which I have undertaken to sketch in rough outline in this volume, my first care must be to find a logical method of exposition, corresponding to the main evolutionary phases of property. Now these phases are correlative with those of political evolution. Indeed the right of property is of such capital importance that every profound modification in the social structure necessarily reacts upon it, and often is but the inevitable consequence of some novel manner of regarding ownership.

I shall therefore study property: firstly, amongst hordes still anarchic; secondly, amongst tribes already organised but nevertheless republican; thirdly, in ethnic groups of more differentiated structure, already possessed of an aristocracy, often of slaves, almost always of a monarchic chief; fourthly, in the great primitive monarchies.

These four principal stages might well include all those coloured races which we, a little too contemptuously perhaps, call inferior, and also the major portion of the white races. But, as these latter have carried their political and social evolution further, by greatly developing its later phases, I shall study them separately, that I may be able to follow them from their primitive savage or barbarous state to later times, without breaking the thread of my exposition and disassociating the humblest beginnings from the last results.

II. *Property amongst Anarchic Hordes.*

The rapid excursion we have made into the animal kingdom has there shown us the principal modes of appropriation in use amongst the various societies of mankind. We have even ascertained that certain species carry the organisation of collective property to extreme perfection. We shall see that, in this respect, there are human societies far from being as civilised as ants. The conception of property amongst backward savage tribes is no more intelligent than amongst troops of the cercopithecus. It is even allowable to suppose that certain numerically small and quite inferior human races, who have stopped at, or fallen back to, the humblest grade of social life, are strangers to the rude idea of hunting grounds, so common even amongst animals. In fact, if the boundaries of such a district are to be observed, its proprietors must be either individually formidable, like the larger beasts of prey, or already aggregated in sufficiently numerous hordes possessing instincts of solidarity.

Neither of these conditions exists amongst those savages who wander through the central woodlands of Borneo, in families which may be monogamous, but are certainly beast-like. They rove the virgin forest like wild animals, and get a mate by carrying her off and pairing with her in the jungle. At night they take shelter under some large tree, where they light a fire to keep off the wild beasts; the children are hung up amongst the branches. The parents, the male and female, thus coupled, generally separate directly their young are able to find victuals for themselves.[1]

The Veddahs of the Ceylon woods are depicted in similar colours. They are described as so unintelligent that their rudimentary language has as yet no name for any number.[2]

These Asiatics, as near to the greater monkeys as to man, may be compared with the South African Bushmans, who live by hunting; mostly by marauding amongst the cattle of Kaffres, Hottentots, or Whites. Having neither houses, artificial shelters, nor flocks, they wander in very small hordes, always hunting, often hunted, and, like the negroids of Borneo and Ceylon, seem in no condition to claim the exclusive ownership of hunting-grounds. Man, however, is naturally so sociable an animal that even the Bushmans are susceptible of kindness and indeed of generosity. Thus it is usual in their little hordes to share any provisions that come to hand, and if a present is given, it is noticeable, says Moffat, that the recipient regales his friends and takes the smallest portion for himself. Furthermore, the same native kindliness is sometimes exercised towards white men, and we know how seldom charity and gentleness are extended by one race to another. Moffat tells how one day, on a journey, his provisions were exhausted, and he was threatened with death by starvation, when a Bushman woman generously saved his life by giving him a meal of ant larvæ; a charitable act that inspired the missionary with a lively sense of gratitude.[3]

The Fuegians of Tierra del Fuego may well be compared with the poor Bushmans; they are, however, a little more intelligent. They are able to make bark canoes, but have not perfected them in any way since the seventeenth century. They also know how to build in an hour rough conical huts of branches stuck into the ground, the interstices stopped with leaves, turf, skins, and so forth. In these primitive huts the naked or nearly naked Fuegians lie heaped five or six together upon the damp earth, much like pigs in a sty.[1] They live principally on shell-fish, and make "kitchen refuse heaps," *kjokkenmöddings*, of the shells, like our far-off, prehistoric ancestors. Their wandering hordes are but little larger than those of the Bushmans. Yet the Fuegians have already some very precise notions about property.

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[1] Lubbock, *Origin of Civilisation*, 10.

[2] *Revue Britannique*, April 1876.

[3] Moffat, *Twenty-three Years in South Africa.*

Darwin was inclined to believe that their little communities voluntarily isolate and divide themselves from one another by deserted spaces, or marches, which would imply some idea of hunting, or rather fishing grounds appropriated and claimed by the different groups.[2] These territories must be of considerable extent, as the Fuegians' manner of feeding obliges them constantly to change their encampments; but they return at intervals to the same spots, as is evident from the piles of old shells, which must often amount to many tons in weight.[3]

Foresight, care for the morrow, are almost unknown by the Fuegians. If they happen to kill a seal, they gorge themselves with its flesh regardless of the future. When a rare piece of good luck enables them to fall, like a troop of vultures, upon the carcass of a stranded whale, they hold high carnival, even if the animal is putrid. But even on these gala days they show instinctive social feeling. In time of famine, and such times are not infrequent, each native horde sends out some of its members to scour the country for any and everything eatable. When these messengers are so happy as to light upon a stranded whale carcass, there is something rudely patriarchal in the home scenes to which their return gives rise. First of all, the scouts detach great pieces of blubber from the whale, and, that they may carry them the more easily, make a big hole in the middle of each, and pass their heads through it, wearing the meat like Chilians do their *ponchos*. Loaded in this original fashion, they return to their own people, and the methodical sharing of the spoil begins. An old man takes the meat, cuts it into slices, grills them for a moment over the fire, muttering the while, and then distributes them to the hungry group. On these occasions the Fuegians sometimes, though rarely, rise to the notion of hoarding, and when the supply is superabundant bury what is left in the sand, just as animals do, dogs for instance.[1]

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[1] Darwin, *Voyage of a Naturalist*, 153, 154 (Hundred Books Series).

[2] *Ibid.*, 156.

[3] *Ibid.*, 153.

The Fuegians seem to have scarcely any idea of private property. "Even a piece of cloth given to one," says Darwin, "is torn in shreds and distributed, and no one individual becomes richer than another."[2] They appear, however, to respect such property as is tolerated at all; family property, at least, and on ordinary occasions. "If," recounts Darwin again,[3] "any present was destined for one canoe, and it fell near another, it was invariably given to the rightful owner." Neither are they strangers to notions of exchange, of commerce. Darwin having given a Fuegian the (to him) valuable present of a large nail, the native immediately picked out two fish, and held them up in exchange on the point of his spear.[4] But these practices may have been suggested to the natives of Tierra del Fuego by European navigators.

In such embryonic societies, doubtless the last specimens of a primitive condition through which all races of mankind must have passed, the idea of property is still on the whole in a nascent state. It seems that the Veddah or the Bushman only claims property in the article he holds, and the food he has painfully procured. The Fuegians, however, appear vaguely to claim property in the territory wherein they drag out their bestial existence; but amongst all these primitive folk the existence of a certain solidarity has been undeniably proved, and without it no ulterior social progress would be possible.

The few human types I have just cited occupy the lowest rank in the hierarchy of our species. The humblest of the races, or rather societies, which we are now going to study, have already emerged from the condition of an anarchic horde and formed themselves into more or less organised ethnic units, into tribes, which are often subdivided into clans subservient to traditional regulations. Now, during this tribal stage, the property system in all races takes a somewhat analogous form, meriting special study.

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[1] Darwin, *loc. cit.*, 155.

[2] *Ibid.*, 166.

[3] *Ibid.*, 165.

[4] *Ibid.*, 165.

III. *Property in Australia.*

Whilst possessing many common characteristics, clearly indicative of a similar origin, the Melanesian groups had reached very unequal degrees of social evolution when first visited by Europeans. The least advanced were the Tasmanians; the most civilised were, and still are, the Vitians[1] and New Caledonians. The Australians held a middle place between the two. But the frankly republican system of the primitive tribe is no longer to be found excepting amongst the Australians.

The Tasmanians, though but little more intelligent than the Fuegians, yet had well-defined hunting-grounds, which men belonging to foreign tribes could not violate without laying themselves open to be driven back by armed force.[2] We have otherwise but the most meagre sociological information about the usages and customs of this race, so savagely destroyed by the English colonists.[3] But we are more fortunate as regards the natives of Australia, who are closely related to the Tasmanians.

The Australians have attained already a complex social organisation. They form tribes, subdivided into clans, and ruled by a mass of traditional customs having the force of law. The leading characteristic of these primitive tribal habits is communism. In my *Evolution of Marriage* I have described the group marriage usual in certain Australian tribes; a communal marriage whereby all the men of one clan are, by right of birth, the husbands of all the women of another clan. I shall not therefore revert to this; but the communal system extends to everything, and if the women are subject to it, this is merely because they are looked upon as things in possession.

The clan system is universal in Australia,[4] and all the members of a clan are straitly bound by solidarity; all mutually owe one another aid and vengeance; all are equals; no other distinctions exist between them but such as are caused by real or supposed personal qualities, such as

[1] Fijians of Viti Levu.

[2] Bonwick, *Daily Life and Origin of the Tasmanians*, 83.

[3] See Ling Roth, *Aborigines of Tasmania*, 1890.

[4] *The Folk-lore of the Australian Aborigines* (Adelaide, 1879), 11.

strength, experience, or the magic power attributed to certain sorcerers supposed capable of commanding the winds and tempests.[1] But all of them obey customs, regulating, often most minutely, every act of life; and these customs are followed blindly, almost instinctively.

In Australia, as in Tasmania, there are well-defined hunting-grounds, whence marauders are expelled. For instance, the black swans' eggs which may be found on such and such an island are the exclusive property of a group, of one given clan. No stranger may seize upon them without settling accounts with the legitimate owners.[2] But these eggs belong to all the members of the proprietary group. The clan holds a certain right of eminent domain[3] over all things; and nothing is more natural, for all the members of the clan have the same *totem* and consider themselves akin.[4] In virtue of this consanguinity all belongs to all, and such things as clothing and utensils pass rapidly from hand to hand. Each individual is possessed of a right to hunt within the group territory, subject, as we shall presently see, to certain regulations. He has also a right to a fixed share of the provisions.[5] The women, when not in common according to traditional law, willingly lend or exchange themselves.[6]

There are, however, articles in which a certain right of personal property is recognised as belonging to individuals. These are, first and foremost, weapons, then ornaments and particular utensils. Here we grasp the actual origin of the *punctum saliens*, of individual appropriation. At the owner's death these privileged articles are sometimes transmitted to his next of kin, according to the rules of which I shall have to speak later; but more often they are buried or burnt with the departed; occasionally they are merely thrown away or broken.[7] This custom of funereal destruction is found amongst the most various races, and it has often been far too sentimentally interpreted by observers. It has been supposed that the kindred of the dead, moved by a feeling of refined delicacy, were horrified to derive any sort of advantage from their kinsman's decease; but these are scruples unknown even to the most civilised persons. It is, I think, unexampled in our own Europe, that the most sincerely afflicted relatives should refuse, from an excess of delicacy, to enter into possession of the inheritance of those for whom they weep. Again, it has been said that the Australians rid themselves of the articles thus sacrificed, though so precious, simply because these things recall the mournful memory of a beloved being. But such sentimentality is unknown to primitive men. The Australians particularly have so little fear of the remembrance of their dead that they often preserve a bit of the skeleton, the skull for instance. Their singular disinterestedness at funerals is susceptible of but one explanation, which moreover is very simple, and is justified by other observations of a like nature. For most savages, the little accident of death does not seriously interrupt the course of existence. In their opinion, the defunct has only assumed a somewhat more attenuated form, and gone as a shade to lead a posthumous life, strictly modelled upon the former one, in a Beyond at some distance,—over a mountain, in an island, or under the sea. Nothing then is more natural than to provide him with all he may find useful or pleasant during this dangerous journey beyond the grave. Cremation is in general use amongst savage peoples, principally with the object of separating the inner and outer selves of the dead, of disengaging his shade from a body that has become useless and inert, and the same process logically applies to the defunct's weapons, clothing, and ornaments. The Polynesians, who did not burn their dead, buried the deceased's weapons with his body, carefully breaking them *that they might be killed.*[1] Without this, they thought the shades of these indispensable articles could not be utilised in the Viti beyond the tomb by the shade of their owner.

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[1] Fison and Howitt, *Kamilaroi and Kurnai*, 232.

[2] *Ibid.*, 226.

[3] The right which a government retains over the estates of individuals to resume them for public use.

[4] *The Folk-lore*, etc., 11.

[5] Fison and Howitt, *loc. cit.*, 249.

[6] *Ibid.*, 52.

[7] *The Folk-lore*, etc., 59, 88, 90.—Fison and Howitt, *loc. cit.*, 245.

Assuredly it was the same childish reasoning that sometimes led our ancestors of the neolithic age to break the hatchets which they also buried with their dead. Some ornamental celts found in the tumuli at Morbihan had been thus intentionally broken. We are here in presence of one of those numerous cases wherein existing ethnography, the living prehistoric age, throws light upon the prehistoric age of the past.

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[1] Ch. Letourneau, *Sociologie*, liv. iii., chap. iv., 257, 2e. édition.

I have said above that in virtue of the communal system flourishing in Australian clans, each member of the kindred (the clan is but a large family[1]) has a right to subsistence; but the exercise of this right is not left to caprice; it has been rigorously limited and defined.

Civilised men, hemmed in by a throng of written laws, are generally inclined to believe that in savage societies each has no other rule than his own whims. It may be so; it does appear to be so amongst races who have stopped on the very lowest rung of the social ladder. Amongst the Fuegians, for instance, there is almost complete anarchy; but directly the tribal system is constituted all is changed. Then the individual, very far from enjoying unfettered freedom, is bound down by an aggregate of customs, traditionally transmitted from generation to generation, and strictly obligatory. It often happens that these customs deal with every action of life, even those with which our most perfected legislation disdains to occupy itself.

However cramping these traditional rules may be, they cannot be infringed without peril, and sometimes in the end they result in semi-instinctive moral tendencies which to us seem incomprehensible. Witness the *Law of the Emu*[2] and its effect upon the Australian conscience.

In all concerning the right to subsistence, Australian regulations are precise even to minuteness; for the interests involved are of the highest order.

The Australian is not as yet either herdsman or agriculturist; therefore the subsistence of Australian clans absolutely depends upon good or ill luck in hunting or fishing, in gathering certain plants, or collecting certain gums, etc.[3] Moreover, the Australian is entirely destitute of foresight, being, in this respect, inferior to many animal species.

In a general way, not the most elementary idea of providing, or preserving nourishment for a future occasion, enters his head. In his hours of plenty he gorges without care for the morrow, and when hunger, voracious hunger, is once appeased, he wastes and even voluntarily destroys all that is left.[1]

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[1] Ch. Letourneau, *Evolution of Marriage*, pp. 261, 270.

[2] Ch. Letourneau, *L'Evolution de la Morale.—Sociologie*, liv. iv., chap. v.

[3] Ch. Letourneau, *Sociologie*, liv. i. et ii.

In Australia cases of foresight are rare and entirely personal. An English traveller, Cunningham, recounts, however, how he found a woman's neck and shoulders preserved for future needs in the bag of a native who accompanied him.[2]

To return to the right of subsistence. The rigid rules under which it exists in Australian clans arise out of both the manner in which food is obtained, and the degree of kinship amongst the consumers. If, amongst the Kurnai for example, a man kills a kangaroo with the aid of two fellow-tribesmen, a hind leg and the beast's tail, an important joint in a kangaroo, belong of right to one of the helpers, whilst the second hind leg and one haunch fall to the other. The rest of the captured animal is assigned to the principal hunter; but custom minutely prescribes the use he must make of it, and in this case rights springing from kinship come into play.

The occupations of men and women in Australia are extremely different, and naturally they also are fixed by the traditional custom which regulates everything. "A man," said a native of the Kurnai tribe, "hunts game, spears fish, fights, and sits about;" which means that all else is a woman's business. Thus she must build the hut, cook, gather vegetables and edible shell-fish, sew the skin bags, bear the children of course, light the fire, feed it, and moreover alway keep in reserve a glowing fire-brand, for the Australians find it a ticklish matter to make fire.[3] But however enthralled the Australian woman, the clan system nevertheless prevents her from being an entirely isolated creature. Her kinsfolk always consider her as belonging in some degree to them, as being their thing, and claim on her account the rights resulting from their kinship, and these rights are taken into serious consideration in that very grave business the sharing of provisions. Thus, in the example just quoted, the principal hunter must, in the sequel, divide the fore-quarters of kangaroo which fell to his own lot: the head and neck, with another joint, cutlet or fillet, he must hand over to his father-in-law; the rest is adjudged to his own father; but the father and father-in-law, in their turn, must make a final division of the meat amongst the members of their respective families.[1]

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[1] Fison and Howitt, *Kamilaroi and Kurnai*, 202.

[2] Peter Cunningham, *Two Years in New South Wales*, etc.

[3] *Ibid.*, 206.

If it is a native bear that has been slain, the beast is split longitudinally into two halves, of which the right is adjudged to the kinsfolk of the man, and the left to the kinsfolk of the woman. The hunter for his share takes only the head and liver; moreover, he gives a portion of this head to his wife, and she again assigns the ears to her sister, if she has one.

If, instead of large game, fish for instance, is in question, the rules are no less precise, and generally they too are based upon kinship. If a man has speared a medium-sized fish, the tail-end belongs to him; the other falls to his wife. If, on the contrary, a haul of little fish has been taken, six eels for instance, four of which are large and two small, the division is made thus: the man, his wife, and his maternal uncle with his wife have each a right to one of the big eels; the last reverts to the elder and younger brothers. Of the two remaining small eels, one is destined for the children of the mother's brother, and the other, circumstances permitting, for the fisherman's married daughter and her husband.[2]

We shall again find this excessive regulation amongst many savages. If in Australia it is specially minute in all concerning food, this is because in that ill-endowed land subsistance is scanty and famine frequent. In the same connection, it is important to remark how this rude and primitive communism fetters the individual, what infinitesimal details it thinks proper to regulate.

The whole of life in Australia is more or less strictly administered by communist customs analogous to those just cited. But differences exist between tribe and tribe. Thus amongst the Kamilaroi it is the clan and not the individual that marries, since, simply by the fact of birth, each man is really or virtually the husband of every woman in a given clan. But in many other tribes the taste for personal property seems to be already born, and it satisfies itself at the expense of the girls. Presently I shall explain why all the statements of travellers upon this head must not be unreservedly accepted; for the moment I merely reproduce them.

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[1] Fison and Howitt, *loc. cit.*, 207.

[2] *Ibid.*, 263.

That men in Australia arrogate to themselves a right of property in girls is nothing surprising. Everywhere women and children have constituted the most primitive of possessions; everywhere men have begun by exercising powers of life and death over these defenceless beings, and therefore, as the greater includes the less, the right of exchange and sale. What we want to know is whether this right is individual or collective in Australian tribes.

If travellers are to be believed, the right of property in girls belongs sometimes to fathers, but more often to brothers, sometimes to both. This latter case is met with amongst the Narrinyeri, a large South Australian tribe. There, to gain himself a wife, the father gives his daughter, the brother his sister, in exchange. The exchange of women is made peacefully and solemnly in presence of the clans interested; for between clan and clan exogamy is the rule.[1]

Morals can only be relative; and as ideas of good and evil, honour and dishonour, strictly conform to the habits dictated by social needs, the Narrinyeri women, thus exchanged from time immemorial by their nearest of kin, have come not only to think the thing natural but even to judge it honourable. In their opinion it is quite shameful for a woman to belong to a man who has not bought her, who has not given another woman in exchange.[2] More than this, to live in marital relations with a man without the solemn commercial exchange previously is something like falling, with us, to the rank of a prostitute.[3] At first sight these customs seem both extravagant and coarse; but if we look more deeply into the matter, there is not so much difference as might appear between this morality of the Australian Narrinyeri and that which sanctifies and glorifies marriages for money amongst more than one civilised people.

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[1] *Native Tribes of South Australia*, 10.—*The Folk-lore, Manners*, etc., 50.

[2] *Native Tribes*, etc., 11.—*The Folk-lore*, etc., 34.

[3] *Ibid.*, 11.

Let us further note that this right of exchanging girls is so completely based in Australia on the idea of property, that the owners, the fathers or brothers, can assign it to some one else on consideration of an indemnity agreed to by the purchasers.[1]

The right of property in girls, considered by their kinsmen as exchangeable values, is in itself nothing exceptional. When writing the history of marriage I cited numerous examples of it, taken from all races and various civilisations. It may be even said to become accentuated, legal, and general in proportion to the growing complexity of organisation in the ethnic group. For instance, it is certainly more universal during the barbarous than during the savage phase. Tardily and very slowly it dwindles and disappears, as a freer system is substituted for the despotic organisation of barbarous societies. But by reason of this very evolution the individual rights of property, which I have just described as exercised by the men in Australian tribes over the girls, cannot be unreservedly accepted. I have drawn the above information from the best sources, but it is only during the last few years that the curious organisation of the savage clan has been laid bare. Until lately, travellers and observers were incapable of setting aside their European ideas, and they always supposed *à priori*, and found everywhere, our own family type. But one sociological study throws light upon another. We know that the family, first maternal, then paternal, has been laboriously constituted in human societies. It was the kindred clan which in the end disengaged itself from the quasi-animal confusion of the primitive horde: a group whose members were all accounted kinsmen, but where the various degrees of consanguinity were still very ill determined.

In these clans it was almost always difficult to designate the actual father of a child, still more so to trace truthful genealogical trees. Therefore everything was simplified by establishing kinship by classes. Thus every individual had groups of fathers, mothers, brothers, sisters, uncles, etc., instituted with very little care for the actual ties of blood.[2]

Now this kindred clan, where kinships were more often virtual than real, has to some extent existed all over the world. We know, from sure sources, that it is still flourishing amongst the Australians. It is then possible, even probable, that the first European observers, uninstructed upon this subject, took for real fathers or brothers in blood, as we understand relationship in Europe, virtual fathers or brothers, kinsmen by convention, only representing such and such a class in the clan, and disposing of the saleable girls, not in their own names, but in the name of the community, which cannot be otherwise than interested in these important transactions.

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[1] *Native Tribes of South Australia*, 112.

[2] Ch. Letourneau, *Evolution of Marriage*, 301-303.

A like reservation must be expressed with regard to the private property in land, which, according to some observers, already exists amongst Australian savages. In general, social life in Australia is communistic. Even in marriage and kinship the individual is sometimes ignored. It is the clan that marries.[1] The clan possesses eminent domain in everything. The boundaries of the hunting, fishing, and collecting territory are clearly fixed, but it is not subdivided; it is the property of all. Weapons and utensils belong to all the members of the community,[2] which is governed by a self-recruiting council of elders.[3] Hunting is regulated, like everything else. Thus young men are forbidden to eat the precious flesh of the emu. Even the gathering of certain comestible gums is authorised at special periods of the year only.[4] In a word, all the individuals of a clan live together, have the same encampment, eat in common, and often lend each other their wives, when these do not belong equally to all.[5]

Under such a system there is no room for *dominium ex jure quiritium*, for private property, especially in land, for this, as we shall see, is very tardily instituted, and generally remains unknown to populations living only by hunting or fishing. When the traveller Eyre tells us[6] that in Australia "each male person possesses a well-defined piece of land, which during his lifetime he can divide between his sons;

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[1] Fison and Howitt, *Kamilaroi and Kurnai*, 57.
[2] *The Folk-lore, Manners*, etc., 11.
[3] *Native Tribes*, etc., 34.
[4] Grey, *Journal of Two Expeditions*, etc., ii. 298.
[5] Fison and Howitt, *loc. cit.*, 52.
[6] *Discoveries in Australia*, ii. 297.

that he has a right to sell or exchange it," etc., we are justified in believing that he either came in contact with tribes whose habits and customs had been profoundly perturbed by Europeans, or that he was the dupe of some illusion. Australians everywhere conceive of property as collective, and when they chance to put forward a claim for payment from Europeans in exchange for the right to draw water from their rivers, that claim rests upon the title of the clan. When two individuals, uncle and nephew, we are told, claim property in the black swan's eggs on a certain bank,[1] they certainly do so in the name of their clan, of which they are the representatives or possibly the last descendants. In fine, the whole social organisation of the Australians is in complete disaccord with this pretended institution of private property, as Europeans understand it, and the rare evidence attesting its existence must, until we are more fully informed, be put on one side, in quarantine.

IV. *Property amongst Animals and Primitive Men.*

The hordes and tribes of which I have just spoken belong to the humblest types of existing humanity. On many sides they may be likened to animals; they are even inferior to them in some of their characteristics. It is therefore far from uninteresting to compare their ways of looking at property with those usual amongst animals. In the first place, we may remark that in point of foresight these primitive folk are far worse endowed than a good number of animal species. It is quite exceptional when they take thought for the morrow. If a windfall of good luck befalls them, they profit thereby on the spot, and their voracity is as that of famished wolves; thus Burchell saw the Bushmans preying upon the entrails of a hippopotamus, wiping the fat off their fingers from time to time upon their arms, legs, and thighs. "They were, besides, plentifully bespattered with the blood and filth, each rejoicing at the portion he had obtained."[2]

Wallis saw a Fuegian devour a raw fish while it still wriggled. He killed it by a bite near the gills, and bolted it immediately, beginning with the head, exactly as a seal would have done. The Fuegians throw themselves upon the carcass of a stranded whale and tear it to pieces exactly like wild dogs. Grey has described an analogous gastronomic orgie observed by him in Australia. It is a passage worthy of repeated quotation, so well suited is it to throw light upon the mental condition of primitive man. A dead whale has been discovered, stranded on the shore. "Fires are immediately lit to give notice of the joyful event. Then they (the natives) rub themselves all over with blubber, and anoint their favourite wives in the same way; after which they cut down through the blubber to the beef, which they sometimes eat raw and sometimes broil on pointed sticks. As other natives arrive, they fairly eat their way into the whale, and you see them climbing in and about the stinking carcass, choosing titbits. For days they remain by the carcass, rubbed from head to foot with stinking blubber, gorged to repletion with putrid meat—out of temper from indigestion, and therefore engaged in constant frays—suffering from a cutaneous disorder by high feeding—and altogether a disgusting spectacle. There is no sight in the world more revolting than to see a young and gracefully-formed native girl stepping out of the carcass of a putrid whale."[1]

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[1] Fison and Howitt, *loc. cit.*, 232.

[2] Burchell, *Travels in the Interior of Southern Africa*, i. 413.

This realistic fragment of Grey's narrative is quite celebrated, and justly so. Indeed there is nothing more instructive than this repulsive scramble for the quarry, for it shows what close moral kinship exists between primitive man and the other animals. The like scenes have been observed in Tierra del Fuego and elsewhere.

But it is difficult to admit that the sharers in these bestial orgies have arrived at the institution of strictly personal property, of the *dominium ex jure quiritium.* Indeed, certain characteristics of these very feasts contradict such an assumption. Traces of instinctive social feeling are revealed amidst this unchaining of the nutritive appetites. In a revel of this sort, observed in Tierra del Fuego, the old traveller, Byron, saw a Fuegian tearing off pieces of stranded whale carrion with his teeth and passing them to his companions.[1] Again, when fortune sends the Australians that precious treasure-trove, a whale carcass, they are desirous that their neighbours should benefit by the rare piece of luck that has befallen, and take the trouble of lighting fires to summon them to the feast.

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[1] Grey's *Journals of Two Expeditions of Discovery* (1841) *in North-West and Western Australia,* p. 263 (as quoted by Lubbock, *Prehistoric Times,* p. 452).

It is probable that this call is only addressed to those members of the clan who at the moment may be at a distance. None the less it indicates a feeling of solidarity, which morally somewhat raises the Australians; leaving them, however, far below ants and bees.

If we compare the various manifestations of the proprietary instinct amongst animals and the most primitive of mankind, the comparison will not minister to our pride. Bushmans, Fuegians, and Australians hardly ever rise to the idea of hoarding. For their rudimentary intelligence there is no morrow. The Veddahs of Ceylon and the Bushmans do not yet appear to dream of claiming property in a hunting-ground. Perhaps the Fuegians have thought of it; but this point is still very doubtful, and we must come to the least backward of these rude races, the Australian tribes, before we find a clear conception of collective property in a certain hunting and fishing district.

We have seen that many animals know how to construct themselves a dwelling, sometimes in common, and that they love and defend it. Now this art is still unknown to the primitive islanders of Borneo, to the woodland Veddahs and to the Bushmans, who are thus always reduced to a natural shelter. The Australians themselves have not yet conceived the idea of constructing a hut. Every evening they squat behind a bark screen, set up beside their fire. The Fuegians, the best lodged of these primitive folk, are but poor architects; and, from this point of view, all these rudimentary types of humanity are quite inferior, not only to beavers, but also to ants, termites, and bees. It is only in manufactured articles, weapons and utensils, that primitive mankind surpass animals, very likely because man has prehensile extremities, hands, which have allowed him to develop certain industrial aptitudes.

But this rude industry appears to have had extremely

[1] Byron, *Voyage Round the World* (Hawkesworth's Voyages, i. 80).

important consequences; by its means, by means of these manufactured products, the immediate results of personal labour, the idea of private property has been born in the human brain. The articles have been in some sort confounded with their creator. Sometimes they are destroyed at their owner's death; more often they are burnt or interred with him. In the long run, as we shall presently see, they came to be transmitted by inheritance. But, in a general way, the specimens of primitive man whom we have just passed in review have conceived of property as collective; for their individual weakness made union an imperious necessity. A lion, a tiger may fight his life-battle alone. A Bushman, a Fuegian, an Australian would be helpless if he made the attempt.

But this very necessity for mutual aid cannot do otherwise than result in the formation amongst primitive men of feelings of solidarity, of altruism; thus raising and infusing poetry into the originally brutal instincts of property, which in the first instance spring solely from the need for personal preservation.

CHAPTER III.

PROPERTY AMONGST REPUBLICAN TRIBES.

I. *Property amongst the Indians of South America.*—Solidarity in Australia and America—The Otomacs—Hunting-grounds—Paraguay missions—Pious despotism—Religious commercialism.

II. *Property amongst the North American Indians.*—Collective property amongst the Nutka Columbians—Personal effects—Common houses—Common provisions—Contempt for riches—Property of the dead—Funeral offerings—"Long houses" of Iroquois—Stores of food usual amongst Iroquois—Regulation of meals—Individual usufruct of cleared fields—Common tillage—Common territory of Omahas—Land not saleable—Common hunting and fishing—How to become a chief—Regulation of hunting—Regulation of agricultural work—Marriage obligations—Periodical allotments—The *Pueblos*—Architecture of common houses—Civilisation of Pueblo Indians—Their political evolution—Ancient communism and recent individualism—Hospitality of *Pueblos*—Solidarity and altruistic feelings amongst the Redskins—Testimony of Charlevoix, Lahontan, and Lafitau.

III. *Property amongst the Eskimo.*—Common dwellings in Kamtschatka—Funeral offerings—Relative honesty of Eskimo—Limitation of private property amongst Eskimo.

IV. *Primitive Solidarity and Altruism.*—Primitive anarchy—Guaharibo Indians, Veddahs, Bushmans—Mutual aid a necessity—Extreme slowness of evolution amongst primitive folk—Instincts result from the mode of life—Socialism precedes individualism—Origin of our altruistic feelings.

I. *Property amongst the Indians of South America.*

As we saw in the last chapter, the whole social life of the Australians bears the stamp of communism. But this is nothing peculiar to them, and if we study the habits of the savage tribes of America, we shall find there, not an organisation identical in detail,—that would be impossible, the natives of Australia and of America having evolved separately,—but a great analogy in development of mind and needs; whence general results in both countries that may admit of comparison. Thus amongst savage Americans, and still more savage Australians, there are both strict solidarity and often excessive regulation.

Doubtless we are without detailed information about very many American tribes; but by piecing together what has been given us by different explorers, and connecting the various results of their inquiries with the almost complete monographs that we possess upon some tribes better known than the rest, we obtain a collection of documents which complete one another, and are enough to give us a satisfactory idea of the social life of the natives of America.

Thus the savage Otomacs, already less republican than the natives of Australia, are grouped in tribes, each having its chief entrusted with the representation and government of the group, who commands or forbids expeditions and hunts. Turtle-seeking, peccary-hunting, etc., is conducted by detachments, told off by the chief, and these parties of hunters or fishers work in common; which naturally implies that the produce of their exertions must be common property. Like most American natives, the Otomacs are something of agriculturists, though hunting and fishing supply the greater part of their resources. The tillage of the cleared patches, planted with maize, manioc, etc., is carried on in common, as is the harvest. The crops are stored in special huts, sort of public granaries, and later divided by the chief amongst those entitled to share them. Agriculture is extremely distasteful to these still savage Indians; they force themselves unwillingly to the toilsome labour it requires, and are very careful not to undertake so weary a task two days running.[1]

Other tribes of South America have somewhat different customs. Certain riparians of the Orinoco have well-defined hunting-grounds, the common property of all members of the tribe; but as they derive their subsistence almost entirely from hunting and fishing, those who like to make trial of agriculture, naturally in the rudest fashion, enjoy uncontested private property in the patches they clear. Only in the usufruct, however, and only for as long as they are able and willing to till them.[1] This is a usual arrangement in most of the tribes. But the usufruct cannot last long, as savage agriculture knows nothing of manures or of the rotation of crops; whence the necessity of not sowing the same patch many times in succession.

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[1] *Voyage à la Terre Ferme*, etc., i. 295.

The tribes of the Orinoco are evidently nearer than the Otomacs to the period of primitive anarchy. Their social regulation is slacker, but the hunting-ground, their sole property worth the name, is held in common.

More or less rigorous communism was usual in South America, and the famous Jesuit missions to Paraguay merely put it into orderly shape. It may be as well to explain in passing what this Jesuit Paraguay, so vaunted by Catholic writers and criticised by free-thinkers, really was. The worthy fathers were not called upon to invent the organisation of their colony, and if the despotic communism of these missions astonished Europe, it was simply because Europeans were insufficiently informed as to American customs, the very antipodes of private property as bequeathed to us by Roman law.

In the Paraguay missions labour was no longer capricious, depending upon the whim of the moment. Like our factory hands, the natives must set to work at a fixed hour, eight o'clock in the morning. The women spun cotton; the men toiled either in the fields or workshops.[2] It was work under supervision, executed beneath the watchful eye of *corregidors.* At harvest-time the Indians carried the corn into public storehouses, where they found overseers, wardens, whose business was to keep a register of everything delivered to them. This corn, sown and harvested in common, belonged to the whole mission. Each month it was distributed, not to individuals, but to the head-men of every ward or district, who were charged to divide the provisions amongst the families under their jurisdiction, proportionately to the number of persons in each family group. In like manner, the requisite number of sheep and oxen were slaughtered daily, and distributed to the headmen of the wards.[1]

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[1] Gilii, *Nachreis v. Lande Guiana*, 397.

[2] Bougainville, *Voyage* (*Éd. Bibl. des Communes*), 112.—T. Child, *Spanish-American Republics*, 1891.

This organisation, this despotic communism, of which I shall have more than one example to mention in the course of my ethnographical inquiries, had its usual advantages and drawbacks. Short of some scourge visiting the whole community, poverty was there unknown; the sick and infirm were gathered together and cared for. Several large houses were built for this purpose, some for men, some for women.[2] On the other hand, there was no personal liberty; the submission of the Indians to the Jesuits was servile. Public offences were punished by the rod, administered as amongst children, without distinction of sex; and sometimes, in obedience to the voice of conscience, the Indians came and accused themselves, begging to be chastised for their undetected faults.[3] In fine, these poor creatures were managed and exploited by their temporal and spiritual directors much as a provident owner treats his domestic animals. The good fathers did not even omit to take the reproduction of their human flock into consideration, and to this end were careful to wake the married people in the morning some time before they had to get up. *Crescite et multiplicamini.* One more remark: Jesuitic Paraguay is a curious example in several ways; but it was founded solely to monopolise the cheap culture of the *maté*.[4] The love of money assumes every mask, and not seldom that of religion.

Once more, this system was no invention of the Jesuits; they found its elements in the primitive habits of the natives. Moreover, they had laid hands upon an infantine, docile race, easily bent, able without difficulty to renounce the precarious, wandering existence it had led in the forests, if it could count upon food and shelter. Shortly I shall have to describe a very analogous social organisation, but realised upon a far larger scale, and with striking success, as it flourished for centuries, and only crumbled beneath the blows of the Spanish Conquest: I mean the great monarchy of the Incas.

But first we must continue our review of other peoples or races that have not as yet passed the primitive stage of the small republican tribe, and see if likeness of political organisation is enough to inspire men of diverse race with a like manner of comprehending property.

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[1] *Lettres édifiantes*, xiii. 264, 265.

[2] *Ibid.*, vol. xv. 347.

[3] Bougainville, *loc. cit.*

[4] *Recherches sur les Américains*, ii. 317.

II. *Property amongst the North American Indians.*

From the extreme north of America, from the frozen plains watered by the Mackenzie River, to New Mexico, the wandering tribes, living principally upon hunting and fishing, and collectively known by the name of Redskins, had everywhere an almost analogous political organisation, and consequently an analogous manner of looking upon property, before they were interfered with by the Whites. It is specially amongst these populations that we find, in the New World, the typical, well-constituted, republican tribe. But the Redskins are more developed than the rude natives of Australia; they attempt agriculture, often have slaves, sometimes even a primitive sort of currency. Certain of their tribes may be seen obviously inclining towards monarchy.

Their property system, like their political organisation, is or was in a period of transition. Private property was already beginning to make its appearance; but communist customs were still vigorous, as a rapid survey of the Redskin tribes from north to south will show.

The Nutka Columbians, a traveller tells us, have in a high degree the sense of collective property in all concerning their hunting-grounds.[1] The game upon these territories is their great resource and an object of jealous watchfulness. But the hunting domains are vast, and always imperfectly marked out, and afford frequent occasions of question and dispute between neighbouring tribes, almost always ending in armed conflicts. This right of collective property in the districts claimed by the tribe is so exclusive that the Ahts attempted to make Cook pay for the water, wood, and grass used by the English ship's company, and the tribes exact passage dues on the rivers traversing their territories.[2] Yet private property already

[1] Mollien, *Hist. Univer. Voy.*, vol. xlii. 410.

[2] Cook, *Last Voyage*, ii. 283.—Bancroft, *Native Races*, i. 191.

exists in Columbia. It comprises solely weapons, utensils, canoes, and finally slaves, who are looked upon as chattels. The dwelling-houses belong to the groups, the clans, who have constructed them by their associated efforts and live there together. Food is not generally common property; but in pressing need it is quite lawful to have recourse to a neighbour's provisions.

Yet these people have a taste for such private property as is tolerated, merely that they may acquire influence, that they may distribute it, like a great chief, to their own honour and glory at the frequent festivals. They have not yet bethought them of hoarding. Occasionally they destroy in pure light-heartedness any extra canoes and blankets they may possess, just out of ostentation and to show how they despise riches.[1]

With greater reason, they give the rein to this disinterestedness at funeral ceremonies. The corpse on these occasions being laid, in American fashion, upon a platform, the weapons and utensils used by the individual during his lifetime are placed beside him, and these articles are always religiously respected. Moreover, in accordance with an idea, strange in our eyes but very logical in those of savages, all these funereal articles are carefully broken, and if the corpse has been laid in a canoe, holes are made in the boat,[2] not, as European travellers have sometimes thought, to secure funereal property from robbers by rendering it useless, but merely to *kill* the articles, so that the deceased may make use of their shades in the Beyond, where he continues, as is believed, his earthly life. Moreover, friends and relatives do not confine themselves to offering what belonged to the dead man in life, but consider it a duty to add thereto from their own stock, so that the traveller who has departed for the Redskin Elysian Fields may enter there well supplied and well equipped.[3]

Later, when we come to speak of inheritance, we shall see that if any articles were preserved, they would revert to the members of the *gens*, in virtue of the superior right of the community.

The Redskin clan had sometimes a common dwelling.

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[1] Bancroft, *loc. cit.*, i. 191.

[2] *Ibid.*, 220, 247.

[3] Charlevoix, *Journal d'un Voyage* (*Hist. Nouvelle France*, vi. 76).

That of the Iroquois is typical, and in a sort celebrated. Iroquois dwellings, "long houses" as they were called, were 80 or 100 feet long by 20 to 30 broad, and 20 high. Their walls were made of close rows of stakes, and covered with bark or wood. A central passage ran throughout their length, with stalls opening from it on either side, each about seven feet square. There were no doors. In these cells the married people slept, on a stage raised about a foot from the ground. Each of the "long houses" sheltered the from ten to twenty separate families forming the Redskin clan, whose organisation I have elsewhere described.[1]

This communism in the dwelling necessarily entailed communism in other things. Thus provisions not immediately consumed were still in the last century the property of the association, whether they were derived from hunting, fishing, agriculture, or even from commercial exchanges accomplished by one member of the clan. They were consequently deposited in storehouses, generally in the keeping of a matron, whose business it was to apportion the common resources. But in these clans they did not eat four meals a day. A single repast was served to all who lived in the common dwelling, and, as is usual amongst savage peoples, the women and children ate apart.[2] The women and girls were, moreover, as I have elsewhere shown, in a state of great subjection, and both were often prostituted, hired out by their kinsmen, who disposed of them as if they were chattels.[3]

All this bears the hall-mark of the primitive communal system, but the dawn of an inclination for private property may be seen in the agricultural customs of the Indians. In the case of a separate field, the harvest appears to have been left to those who had taken the trouble to disforest the land, by means of fire, and afterwards to sow it. The first task fell generally to men, the second to women. When, as was generally the case, there were several patches in juxtaposition, the women of the clan dug and cultivated them in common, in troops. They all aided each other, sowing the various fields in succession, and indeed there was no boundary to separate them. The woman who was more especially mistress of the bit being tilled, distributed the needful seed to her companions. Finally, the harvest was gathered in, as the seed was sown, in common.[1]

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[1] *Voyage de Lahontan*, ii. 104.—Ch. Letourneau, *Evolution of Marriage*, 275.

[2] G. Teulon, *Orig. du Mariage*, 185.

[3] Charlevoix, *loc. cit.*, vi. 39.

Such were the ancient customs. They have naturally been greatly modified by time, and above all by contact with the Whites. Yet a minute inquiry, recently made amongst the Omaha Redskins, showed that the old spirit of solidarity was still alive amongst them. Each tribe of Omahas resolutely claimed property in a certain territory for the purposes of dwelling, hunting, fishing, and partial cultivation; but the idea of selling any portion of this precious ground struck none of them.

"The earth," said the Omahas, "is like water, like fire, a thing which cannot be sold." And they only yielded to fear when in the end they ceded certain lands to the Whites.

The Omaha tribes were subdivided into clans, narrower social units, each having its common dwelling, and sharing the game and fish killed by the members of the little group. Each of these large families possessed a certain portion of tillable land and cultivated it, but without having any right to alienate it. The families of the same tribe, however, might exchange with one another. As for the unoccupied land, each could cultivate this or that portion at his convenience.[2]

Amongst the Omahas the main actions of life were strictly regulated. The tribe was governed by an elected chief, assisted by a council. But to be chief, a man must unite certain qualifications, first and foremost, enjoy an excellent reputation in the tribe; then, as they began to swerve from their original equality and amass exchangeable values, he must be rich, able to scatter money presents right and left, consequently have acquired all the personal fortune compatible with Indian habits. It was not even enough for him to distribute presents individually; he must besides give public festivals, to which every one was bidden. Even in this the ancient communal spirit still showed itself. Having once reached supreme rank, the president of the tribe, the Omaha chief, assisted by his council of warriors, was charged with the regulation of the principal actions of social life. To hunt buffaloes alone was a misdemeanour; this hunting must be collective, and was subject to minute formalities. At the proper season the authorities sent out scouts to reconnoitre, simply to beat the hunting-ground and give notice of the presence of a herd of bisons there. They were expressly forbidden to kill one of them. Directly their mission was accomplished they must return to the encampment. On receiving favourable intelligence from the messengers, all the men set out in a body and fell together upon the herd. Generally each hunter killed several buffaloes, sometimes eight or ten, and he took care immediately to cut out the tongue, a dainty morsel; he must not, however, take it out whole through the jaws, but through an incision made according to rule in the region of the neck. Again we find that turn for excessive regulation habitual amongst primitive folk. When a beast fell beneath the blows of several hunters, it must be divided into as many pieces as there were hunters interested.[1]

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[1] Lafitau, *Mœurs des Sauvages*, iii. 70, 71.

[2] O. Dorsey, *Omaha Sociology* (*Reports of Smithsonian Institution*, 1886).

The agricultural customs were much the same. In spring the tribal council assembled and fixed the authorised moment for sowing, which was announced in the village by a crier. From that moment, but not before, folk were free to sow their fields.[2]

It will be seen that these habits are deeply stamped with communism, authoritative communism. The individual must humbly submit to the decisions of the group, represented by its elected chief and his council. The clan has incontestable rights over each of its members; in return it aids, avenges, and at need even feeds them.

In writing the history of marriage amongst the Redskins, I have had occasion to describe the obligations there entailed by wedlock upon the man. I repeat in passing that the Redskin husband never belonged to the same clan as his wife or wives, who were often sisters. And when he married he contracted heavy obligations towards the clan of his mate or mates; thus, for example, he must repair the wigwam of the clan wherewith he allied himself, and give to

[1] O. Dorsey, *loc. cit.*, 287.

[2] *Ibid.*, 302.

this wigwam or common dwelling all the game he killed for a year, and in succeeding years the half of it.[1]

In time, especially in the more agricultural tribes, an evolution took place, which we shall find amongst peoples of all races and colours. Property in cultivated fields tended to become more and more personal; property in their usufruct I mean, in the crops; no one yet laid claim to property in the ground itself, soil and sub-soil. Thereupon, in America as elsewhere, the group, the clan, who held the eminent domain, protested against individualist tendencies, by having recourse to periodical redistributions of the land under cultivation. Thus amongst the Tarumas of New Mexico, the soil was reallotted from time to time amongst those who had a right to it.[2]

The series of facts just quoted are doubtless sufficient to bring into clear relief the character of the right of property amongst the Redskins. Though claims and tendencies to private property had begun to emerge, this right upon the whole was understood to be collective; and care for public utility far surpassed that for private interests.

The same spirit, though enfeebled, still reigns amongst the New Mexican Indians called *Pueblos*. Their tribes, most assuredly belonging to the same race as the Redskins, have evolved in their own way, and the study I am here undertaking would be incomplete if I did not say a few words of these Indians, who are much more civilised than the others. The Pueblo Indians of our day have specially attracted and excited the curiosity of European scientists by their large common dwellings, just as they did that of their Spanish conquerors, who were the first to speak with astonishment of the *casas grandes*.

These *casas grandes* are huge constructions, with the general form of a colossal flight of steps, each step being a storey. Every storey, retreating from the façade of that below it, is subdivided into cubic cells, access to each of which is generally obtained from the ceiling by means of ladders. These dwellings are a sort of phalansteries, whose dimensions vary with the importance of the population occupying them. The Pueblo Indians inhabiting the north of New Mexico, those least distant from the Redskins, are still hunters, and more or less nomadic, and their dwellings are very simple in construction; they are built of stakes, earth and bark, and have only one storey, composed of cells side by side. In the south, on the contrary, large *pueblos* are to be found, several storeys high, and built of sun-baked bricks.

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[1] Lafitau, *Mœurs des Sauvages*, ii. 268.—*Lettres édifiantes*, vol. xiii. 130.

[2] Bancroft, *loc. cit.*, i. 583.

Twenty or so of these *pueblos* still exist in New Mexico, inhabited by about seven thousand Indians, and each is formed either of one great house or of two, three or four dwellings, often situated in a spot difficult of access.[1]

At the time of the Spanish Conquest the Indians of the *pueblos* had reached a relatively advanced degree of civilisation; they were agriculturists and potters; they wove cotton stuffs; they had domesticated the turkey,[2] and were on the whole consolidated into stable and sedentary little societies, some of which have lasted ever since, though the greater part have disappeared. The *pueblos* must have gradually increased by the aggregation of new cells as the population grew more numerous, and the idea of raising them storey above storey doubtless resulted from the very situation of the dwelling, which was generally built on a cornice of rock, on a narrow ledge where it was impossible to extend it over a wider surface. At first the families pressed closely together and built up a *pueblo;* finally the overplus swarmed forth, like bees from a hive, and founded new dwellings.[3]

The political and social organisation of the *pueblos*, especially their ancient organisation, was much like that of the Iroquois and Hurons. Each *pueblo* had its chief, its elected caçique and his council of notables. To-day the political evolution is taking a decided bent towards monarchy, and the caçique may, if he pleases, nominate his successor.[4] Each ancient *pueblo* represented a clan, and each of its cells sheltered a family. Save for the style of architecture, its general organisation is much the same as that of the Iroquois "long houses," with their stalls arranged along a central passage.

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[1] L. Morgan, *Houses and House-life of the American Aborigines* (*Reports of Smithsonian Institution*, 1881), 132, 133.

[2] *Ibid.*, 134, 135.

[3] *Ibid.*, 170.

[4] *Ibid.*, 148.

Since their decadence, and the abandonment to a large extent of their ancient customs, the Indians of the *pueblos* have more or less adopted private property and monogamy. Nowadays there are rich and poor amongst them, as amongst Europeans; but their ancient organisation was communistic.[1] The actual dwelling is so still, and all, men and women alike, work at its construction.[2] But formerly the communism was much more extensive. The territorial domain belonged to the whole community, and, in old Redskin fashion, the clans exercised a generous hospitality,[3] quite beyond the means of a private family.

Now that we are acquainted with the property system amongst the principal groups of Redskins, at least in its essential characteristics, it is interesting to investigate the influence exercised by this system upon Indian habits and moral tendencies. It cannot be too often repeated that the human brain is above all things a registering apparatus; the accidents, incidents and events of life leave their imprint there, and these imprints are stamped deeper and deeper as the impressions, whereof they are the trace, are often and regularly renewed. It is therefore a necessity that in time the political organisation, and above all the economic system under which man lives, should form or deform his character. Now however justly open to criticism the rude and authoritative communism of many savage tribes may be, it does result in strict solidarity between all the members of a clan, which must necessarily favour the birth and development of altruistic feelings. Indeed all observers, ancient and modern, have recognised, and often admired, the generous qualities existing amongst the Redskins. Some of this testimony I will quote. Charlevoix, speaking of the great mutual consideration shown by the Indians to one another, says: "This doubtless arises partly from the fact that *mine* and *thine*, those icy words, as Saint Chrysostom calls them, are not yet known amongst these savages. The care they take of orphans, widows, and the infirm; the hospitality they exercise so admirably, are merely a consequence of their persuasion that all ought to be in common amongst men."[1]

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[1] L. Morgan, *loc. cit.*, 136. [2] Bancroft, *loc. cit.*, i. 535.
[3] L. Morgan, *loc. cit.*, 136.

After the Jesuit Charlevoix, let us hear his contemporary and critic, the free-thinker Lahontan:—"These savages (the Redskins) know nothing of mine and thine, for it may be said that what belongs to one belongs to another. When a savage has been unsuccessful in beaver hunting, his fellows succour him without being asked. If his gun bursts or breaks, each hastens to offer him another. If his children are captured or slain by foes, he is given as many slaves as he needs to provide for his subsistence. It is only those who are Christians and dwell at the gates of our towns who make use of money. The others will not touch or even look at it. They call it the 'Snake of the French.' They say that amongst us folks kill, rob, slander, betray, sell one another for money; that husbands sell their wives, and mothers their daughters for this metal. They think it strange that some should have more goods than others, and that those who have more should be more esteemed than those who have less. . . . They never quarrel and fight amongst themselves, nor steal from nor speak ill of one another."[2] The Jesuit Lafitau, in his turn, confirms this witness, telling us that if during hunting a well-supplied Redskin clan—a "wigwam" as he calls it—meets another less fortunate, the members of the first clan generously share with those of the second, without waiting to be asked.[3]

Even now, though the ancient customs have greatly suffered from contact with the Whites, and the decadence that has been its result, the traces of the virtues of former days are not yet entirely wiped out. The Navajos of New Mexico have a public asylum for the sick, the deserted and the orphans, the care of which is confided to special agents, men and women, called *tenanches*.[4] Finally, a contemporary observer, O. Dorsey, relates that the Omahas and Ponkas never desert the aged and infirm upon the prairie, and when they go out hunting they leave them at home with sufficient provisions, water, and wood.[1] In fine, the long practice of communal property has, as is natural, engendered feelings of humanity and strict solidarity in the brain of the Redskins. For psychology and sociology this is an important fact.

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[1] Charlevoix, *Histoire de la Nouvelle France* (*Journal d'un Voyage*, etc.), vi. 11.

[2] *Voyage de Lahontan*, ii. 105, 106.

[3] Lafitau, *Mœurs des Sauvages*, iii. 82.

[4] Bancroft, *loc. cit.*, i. 5, 83.

III. *Property amongst the Eskimo.*

The necessity of life in society is so imperative for primitive men, the obligation to a more or less strict solidarity is so binding, that the communist system is everywhere and always imposed upon their weakness, but naturally with variations resulting from habitat and race. Thus the manners and customs of the Eskimo, so different from those of their hereditary foes, the Redskins, are also very communistic.

Those in Kamtschatka, who are the most civilised, are, or were in the last century, grouped in small rudimentary clans, living in common huts. In these huts, families occupy separate benches spread with reindeer skins, and serving for both beds and seats.[2]

The more or less personal property of the Kamtschatdales also consists in manufactured articles, weapons, utensils, or, amongst the most civilised, in slaves, dogs, and reindeer. In Kamtschatka also the things used more or less exclusively by an individual are habitually sacrificed at his death, buried or burnt with him.[3] The Kamtschatdales, whose country is well wooded, practise cremation; they raise a great funeral pile and fling the dead man's spear, quiver, axe, pot, etc., upon it. They even slaughter the reindeer which has drawn him, eating part and burning the rest.[4]

In general the Eskimo are extremely honest amongst themselves; but all consider it not only allowable, but even very praiseworthy to rob strangers.[5] A clever robber of foreigners is an object of admiration, provided he does not let himself be caught.[1] This distinction is easily explicable. There is no casuistry about it. If property seems to them worthy of respect amidst their own clan, it is because it is in great part common; consequently to steal from a member of the association is to steal from oneself. Their honesty is thus but well understood egoism.

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[1] O. Dorsey, *Omaha Sociology* (*Reports of the Smithsonian Institution*, 1886).

[2] *Histoire de Kamtschatka*, 1767.

[3] *Ibid.*, 113, 245.

[4] *Ibid.*, 245.

[5] *Ibid.*, 241.—Bancroft, *loc. cit.*, i. 63, 64.

Saving a few needful utensils and weapons, and certain provisions, few Eskimo in Greenland possess private property in aught except their clothes, and their little canoes or *kayaks*. The rest is the property of the clan.[2] And again, this very restricted private property is merely relative. Thus an individual who, after having borrowed a weapon or a tool from a companion, loses or spoils the article, owes no compensation to the lender; for the Greenland Eskimo think that a man only lends his superfluities, and the article lent is not indispensable to its owner. In virtue of the same theory, they do not object to a man having two *kayaks*, but if he possesses a third, he must lend it to some member of his clan; wealth must not accumulate. In general, all that does not minister immediately and directly to the individual is looked upon as common property, at the disposal of any who need it. With very rare exceptions, one man alone cannot capture the larger animals, a whale, a walrus or a bear; consequently the Greenlanders have decided that these creatures, however taken, shall be the common property of the clan. What he can by himself convert to his own use belongs to the individual; nothing more. For instance, an Eskimo has a right to consider as his own any piece of drift-wood that grounds on shore, but on condition that the size of the flotsam allows of one man dragging it high and dry beyond the reach of the tide.[3] In this case a stone placed upon the piece of wood is enough to guarantee the right of private property.

As the Eskimo hordes or clans are still very nearly in the anarchic state, individual liberty is respected in their groups. If social obligations press heavily upon one of them, he has a right to leave the association, to build a hut (*igloo*) for himself personally, and to hunt and fish at his own risk.

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[1] *Histoire de Kamtschatka.*—Petitot, *Les Grandes Esquimaux*, 115.

[2] Rink, *Tales and Traditions of the Eskimo*, 1877.

[3] *Ibid.*

"You will not aid the others," says the association to him; "so be it, no one will aid you." This is the reasoning of savages doubtless; but it is no foolish reasoning for all that.

IV. *Primitive Solidarity and Altruism.*

In this and the foregoing chapters I have cited enough ethnographic facts, as I think, to give a just idea of what property must have been in primitive societies, at first anarchic, then republican. I have limited myself to throwing into relief the most convincing examples, the best preserved survivals. But in continuing these studies, and speaking of property during its secondary social phases, I shall turn up numerous traces of its primitive organisation. It appears then that the whole human race has first passed through an anarchic period, and then through a stage of tribal equality. In our days specimens of the anarchic state are rare. I have cited the best known, but very likely some others exist in unexplored, or little explored, regions of the globe, notably, if the witness of certain bold French travellers is to be believed, in the central regions of South America. Near the sources of the Orinoco, M. Chaffaujou met Guaharibo Indians without clothing, houses or tents, feeding on large worms which they scrape up with their nails, and especially on seeds and palm shoots which they sever with their teeth. These poor creatures live in little hordes of a dozen persons, and are a hideous sight with their frail limbs and distended belly. (*Congrès de Géographie du Havre*, 1887.) Doubtless other human types of the same sort will still be met with; but those I have mentioned, the Veddahs of Ceylon, the Bushmans of South Africa and the Fuegians will suffice us as specimens.

By a succession of highly legitimate inductions, which are moreover strengthened by prehistoric archæology, we are led to believe that always and everywhere human societies started with the anarchic horde, to pass later into the organisation of the equal tribe, still well preserved in Australia, and capable of being studied during the last century in North America.

During these two sociological stages, the system is more or less communistic, property is mostly collective. It could not be otherwise. Primitive man, scarcely more than a beast, is still feeble and defenceless before the foes that waylay, the perils that assail him. Everything makes association an imperative necessity. In anarchic hordes mutual aid is still irregular and spontaneous; but in the well-constituted republican tribe it is regulated, sometimes very minutely.

The duration of these stages, through which all human races have passed, must have been extremely great. For two centuries the social and intellectual state of the Fuegians has not been sensibly modified, and, as a general rule, the more primitive a society the slower its evolution. To-day, outside the European nations, fixity, immobility are the rule. It is therefore certain that during thousands and thousands of years, our prehistoric ancestors lived in small groups, rudely but strictly social. Now, any sort of life, if it endures long enough, cannot fail to influence the human mind, to determine the formation of correlative moral or immoral instincts. It is then probable that to this long period of social solidarity through which our ancestors have passed, we owe the purest of our altruistic humanitarian instincts. We have already ascertained the existence of these instincts amongst the savage dwellers in Tierra del Fuego. When a Fuegian tears a piece with his teeth from the putrid carcass of a whale, he acts like a beast, like a wolf or a vulture; but when he spontaneously passes the detached strip to his neighbour, he is already acting like a man. In like manner the Redskins took a lively interest in the fate of members of their clan, for each was necessary to the others.

Since these far-distant ages, individualism has slowly and largely developed, passing through phases which I shall have to point out. To-day, when we read in Plato that in a well-ordered state the whole of society must feel the pleasures or pains of each of its members, when we see the French Convention taking up the same idea and declaring that "all society suffers when one of its members is injured," we are filled with surprise and admiration, just because these wide humanitarian feelings are in disaccord with our individualistic habits. But these ideas of social solidarity, in which we see something sublime, would seem quite simple to the Redskins. In their clans, in their tribes, each leans upon and counts upon his neighbour. The loss of a single warrior seems to them a subject of infinite regret, because it weakens the association.[1] It is inculcated upon Redskin chiefs to look after their men; a victory dearly bought dishonours him who has achieved it. Doubtless others must be exterminated, but one's own folk must be preserved at all costs. Redskin egoism, like Redskin property, is collective.

While searching, as we are searching here, into sociological origins, we have already more than once discovered very interesting psychological origins. Naturally, for the two are closely connected. I believe we have here again lighted upon a find of the same sort. Our instinctive feelings of pity for others have often been explained by saying that each of us, on seeing misfortune or suffering, substitutes himself, as it were, for the sufferer before his eyes, and feels the reflected effects of his misfortune. There is surely a partial truth in this explanation. But if the misfortune of others can thus touch us by reflection, it is because many generations of ancestors, living under a more or less strictly communal system, have bequeathed to us feelings of sociability and humanity, which are latent but still alive in the depths of our consciousness.

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[1] Lafitau, *Mœurs des Sauvages*, iii. 148.

CHAPTER IV.

PROPERTY AMONGST MONARCHIC TRIBES.

I. *Property in America.*—Monarchic system in certain Redskin tribes—Slavery and its influence—Slave property amongst the Nutka Columbians—Slave recruiting—Hereditary nobility—Hereditary monarchs—Prerogatives of chiefs—Monarchic system amongst Natchez—Absolute power—Hereditary caçiques in Florida, the West Indies, Bogota—Aristocracy and monarchy engendered by slavery.

II. *Property in Polynesia.*—Monarchic system in Polynesia—Communistic survivals—Common houses on Easter Island—Probable community of wives on Easter Island—Common dwelling at Ulietea—Right to subsistence in the Marquesas—Common fishing at Kingsmill—Communal survivals in New Zealand—Common storehouses—The Polynesian proletariat: *toutous*, *touas*, *kikinos*—The chiefs' right of eminent domain—First sales of land in New Zealand—The chiefs' right to flotsam and jetsam—They claim right to instruction—Subjection of women—Agricultural implements of New Zealanders—Nomad agriculture—Enclosure of fields—Private property in movables—Appropriation of cleared lands—Distinction between a building and the ground it stands upon—Its cause—Three categories of proprietors—Family allotments—The new-born proprietor—The family allotment and the right of bequest—General view of the property system in Polynesia—Contempt for agriculture—Hongi.

I. *Property in America.*

As we have seen in the last chapter, many Redskin tribes were still living under a republican organisation, in a state of equality. The group, tribe or clan held the eminent domain; the hunting-ground was common; all the female labour of the association was put in requisition for such agriculture as was attempted; there was close solidarity; the chief was elected, and a combination of qualifications, with certain moral guarantees, was exacted from him.[1] He represented the community, but only governed it with the aid of a council of warriors. Agriculture as yet went for very little; it was but an accessory, and, being thus merely supplemental, was left to women's management. Hunting was the main resource, and was carefully regulated by the public authorities. Finally, there were no domestic animals and rarely any slaves. It follows that personal property was in a rudimentary stage, and the impossibility of amassing individual wealth maintained great equality amongst the members of the association. This social condition of the primitive tribe we shall not again meet with.

Even in certain Redskin tribes various movables were already transmitted by inheritance in the female line. Already the maternal family was beginning to emerge from the confused kinship of the familial clan. In a certain number of tribes slavery had been instituted.

All these causes necessarily tended to substitute the beginnings of social differentiation for the primitive system of equality. It would appear that it was slavery which first of all gave birth to classes, castes and inequality of goods. Indeed, all these existed amongst the Nutka Columbian Redskins, whose troops of slaves were recruited by war, and the perpetual kidnapping of children from neighbouring tribes. These Columbian slaves constituted personal property and an inferior class. An important traffic was carried on in them. Moreover, they were compelled to do all the hardest work, and the female slaves were hired out, and used as prostitutes. Lastly, their children were slaves by the fact of their birth.[2]

In fine, amongst these very rude Columbian Indians we already find a veritable slave caste, whose members were treated exactly like domestic animals, and represented an exchangeable value, capable of accumulating in the hands of individuals. Now the slave caste was mostly recruited by war, with the result that the doughtiest and most fortunate warriors had more chance of enriching themselves than the rest. Whence this very natural consequence: the men uniting the greatest renown as warriors with the greatest

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[1] O. Dorsey, *loc. cit.*, 358.

[2] Bancroft, *loc. cit.*, i. 191, 194.

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opulence were soon distinguished from the common herd, reputed noble, and, the maternal family being already founded, were shortly entitled to transmit their nobility. More especially did this occur in the case of the greatest amongst them, the supreme chief, who replaced the republican leader, formerly elected by his peers, and became a petty hereditary monarch. Nevertheless, in spite of this change, the tribal hunting-ground still remained common property.

This constitution of the monarchic tribe, with its rich and poor, nobles and plebeians, was already in existence in several places in North America during the last century. It was completely organised amongst the Nutka Columbians, who possessed many slaves. Its first rough outlines were found amongst the Hurons, who had not as yet the hereditary servile caste, but amongst whom power was transmitted with some regularity in the female line, and the chiefs haughtily dominated the vulgar. The council only assembled when summoned by the chiefs, who had a right to the lion's share at feasts and distributions, and were overwhelmed with gifts.[1] But it was more particularly amongst the Natchez that the aristocratic and monarchic system, with all its consequences, was seen in the fullest activity. Here it was a reproduction in little of the great monarchic states of Central America. The grand chief of the Natchez was nothing less than the Brother of the Sun, and he bore his celestial brother's name. He was a divine personage, reigning, with powers of life and death, over a hereditary nobility, ranged around and beneath him.[2] The government of this demi-god was naturally very despotic. The lives and goods of his subjects belonged to him, by the right of eminent domain. But, whilst revering him as a divine being, his people were very careful to keep their huts a good way off his. The neighbourhood of the great is not always entirely pleasant.[3]

This monarchic organisation was not peculiar to the Natchez; it was that of many tribes or petty states bordering upon the great Mexican empire. In Florida the hereditary caçiques were objects of servile respect.[1] The West Indians obeyed chiefs who enjoyed absolute power by right of birth, and spoke in the name of the gods.[2] At Bogota the ruler was adored as a divinity, and never went out without having his way strewn with flowers. Moreover, he was overwhelmed with valuable presents, and levied taxes upon his people.[3]

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[1] Lafitau, *Mœurs des Sauvages*, ii. 172, 174.

[2] G. Richardson, *Hist. Amer.*, Book iv.

[3] Charlevoix, *loc. cit.*, vi. 172.

It will be seen that all these caçiques, these absolute princelets, have attained the huge prerogatives of great despotic monarchs, and the genesis of the one throws light upon that of the other. A comparison of the American tribes, placing them in a graduated series from the primitive system of communistic equality upward, plainly shows that, at least in this part of the world, the establishment of aristocracy and hereditary monarchic power has merely crowned an economic evolution, whereof the point of departure was the institution of slavery, and the consequent development of agriculture; whence arose the rupture of primitive equality, creation of exchangeable values, development of private property, contrast between rich and poor, foundation of castes, and hereditary succession. We have but fragmentary and incomplete information about these petty American states. But we are somewhat better informed as to the organisation of property in Polynesia, where a very analogous social condition existed.

II. *Property in Polynesia.*

When the earliest European navigators visited the Polynesians, these had already long left behind, not only the anarchic, but the republican stage. Their tribes had adopted the monarchic system; each had a hereditary chief, a noble caste, a servile class and often actual slaves. Under such a political organisation property is rarely in common; in each group the supreme ruler, always armed with despotic powers, and under him the members of the aristocratic caste, have, as far as in them lay, encroached upon the ancient common possessions. Such a community has members privileged or disinherited in virtue of their birth. Nevertheless, the primitive communistic stage has left more than one trace, and from this point of view, as from so many others, the Polynesian race is extremely interesting to study; for it is dispersed throughout numerous archipelagoes, very distant from one another, and has evolved separately and at an unequal pace.

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[1] Charlevoix, *Hist. Nouvelle-France*, iii.

[2] Richardson, *loc. cit.*, iv.

[3] *Ibid.*

At Easter Island American communism still reigned; it was even more pronounced than amongst the Redskins. La Perouse found "long houses" there, like those of the Iroquois clans. One of these dwellings, he says, was 310 feet long, 10 wide, and 10 high. In general form it was like a great *piroga* (boat) bottom upwards. The only entrance was by a door at either end. These doors were scarcely 2 feet high, and could only be entered by crawling upon hands and knees. According to La Perouse, this house was big enough to lodge at least two hundred persons. By itself it was a village. It was evidently the common home of a clan. Amongst these islanders no man seemed to have anything resembling marital authority over the women. La Perouse suspected that they were in common, so eager were the men to lend them to the French sailors.[1] A very small portion, scarcely a tenth, of the soil of the island was cultivated; but the French navigator gives us no information as to how this portion was tilled and owned.

In all the Polynesian archipelagoes, remnants, survivals of the ancient communism, were still extant. In Ulietea, one of the Society Islands, at the end of a bay called Apotopoto, Cook found one remaining specimen of the long clan houses, a large dwelling, still in common and full of inhabitants.

In the Marquesas Islands, when a native set out on a journey he carried no provision with him. If he were hungry, he went into some hut, and, without asking permission, dipped his hand into a tub of *popoï* (bread-fruit paste); when he had eaten enough, he departed without any thanks. He had only exercised a right.[2] At Kingsmill Island, in the Samoan Archipelago, it was almost a misfortune to a native to make a good haul in fishing. Scarcely had he landed, before every one surrounded him, each choosing from the canoe the fish he liked best, without any consideration for the owner, who could only console himself by reflecting that he too enjoyed, in the case of others, the right which they abused in his own.[1] This right to share all the necessaries of life with his neighbours was the privilege of a freeman in the Samoan Islands. Naturally slaves were deprived of it. Everywhere and always the slave has been looked upon as a chattel, a domestic animal, working for his master and maintained by him.

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[1] La Perouse, *Hist. Univ. Voy.*, vol. xii. 99.

[2] Radiguet, *Derniers Sauvages*, 158.

The islanders of New Zealand were in some ways behind those of several Polynesian archipelagoes, notably the Society and Sandwich Islands, and certain traces of the past were more distinctly discernible there than elsewhere. Cook there met with small societies possessing in common their beautifully woven silky stuffs, and their great nets, their seins.[2] Sometimes the communism was still more thorough, and included the women.[3] In New Zealand nothing was observed analogous to the common dwellings, the "long houses," of Easter Island. On the contrary, the hive-shaped huts, entered on all fours, by a tiny door, were only 7 or 8 feet long, by 5 or 6 wide;[4] but in the *Pah*, or fortified villages, there were three public stores: one for victuals, one for nets and fishing implements, and the third for weapons.[5] Each of these stores answered to one of the main interests of the community, against which the predominance of the chiefs and nobles, and their selfish inclination for private property, had not yet been able to prevail. In most of the Polynesian archipelagoes, however, this inclination had gained a wide field for its exercise.

The population was everywhere divided into great chiefs (*ariis*), petty chiefs (*rangatiras*), and common people, workers and proletarians, over whom the great men possessed certain rights, even those of life and death. In Tahiti these villeins were a sort of metayers, paying a tribute in kind to the chief proprietor of the soil.[6] Their designation varied:

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[1] Admiral Wilkes, *Narrative*, vol. v.

[2] Cook, *First Voyage*, ii. 471.

[3] G. Teulon, *Orig. Famille*, 50.

[4] *Voyage de l'Astrolabe* (Pièces justificatives), 55.

[5] *Ibid.*, 56.

[6] Cook, *Third Voyage*.

in Tahiti they were called *toutous*, in the Marquesas Islands *kikinos*, in Tonga *touas*, etc., but their lot was everywhere extremely humble. They were the chief's servants and soldiers, dependent upon him, and it was amongst them that the priests chose the human victims to be offered to the gods (*eatouas*).

The great men, the chiefs, in all these islands possessed eminent domain, and only respected the property of their inferiors within the limits of their own good pleasure. In Tahiti, when a chief asked, "Whose is that pig, that tree?", the owner respectfully replied, "It belongs to both of us," or, more exactly, "to thee and to me" (Notava).[1] At Nukahiva, in the Marquesas Islands, the princely right of eminent domain was carried to an extreme. Wherever the chief chose to show his aristocratic person, he was at liberty to seize upon any article that suited him. Consequently, when the king or queen approached, their subjects hurriedly hid all their most precious possessions.[2] A chief's good pleasure was bounded merely by the good pleasure of other chiefs, upon whose territory he might not encroach.[3] A travesty of the ancient right of common property enjoyed by the clan or tribe in its hunting-ground found refuge in this petty monarch's person. The uncultivated portion of the territory, which was by far the greater, that portion which in all primitive societies remains common, was in New Zealand at the free disposal of the chief.[4] It was parts of this, as yet uncleared land, that the New Zealand kinglets at first sold to the English colonists. Thus a New Zealand chief, named Oudi Okouna, ceded a piece of ground to the missionary Marsden. A deed of sale was drawn out and signed by the chief in an original fashion. He carefully drew the tattooing of his own face at the bottom of the page. The next day he publicly declared to his people that the said land had become the property of the Whites.[5] The price was paid to the chief only, and amounted to twelve hatchets.

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[1] Moerenhout, *Voy. aux Iles du Grand Océan*, ii. 181.
[2] Radiguet, *Derniers Sauvages*, 19.
[3] *Voyage de l'Astrolabe*, etc., 366.
[4] Thiercelin, *Journal d'un baleinier*, ii. 15.
[5] *Voyage de l'Astrolabe*, etc., 132.

Habitual omnipotence had given these petty despots no mean opinion of themselves. They would rather have died than carry the smallest burden.[1] They claimed rights of flotsam and jetsam, and one Shongi, a New Zealand chief, who has gained a certain notoriety in travellers' tales and missionary memoirs, went to war with a neighbour whose subjects had eaten a whale stranded upon his (Shongi's) shore.[2] In New Zealand, as in Australia and Tierra del Fuego, the stranding of a whale was accounted a rare piece of good luck. When the English missionaries opened a school, the chiefs let it be understood that it would be very well to instruct their children, but worse than useless to teach the children of the people, who were condemned by their birth never to have either property or servants.[3] When the missionaries exhorted them on the subject of polygamy, they answered that they needed many wives to till their sweet potato fields; they would have less, they said, when, like English gentlemen, they could replace them by cattle.[4]

It was, indeed, the duty of the New Zealand women to grub up edible fern-roots and plant fields of sweet potatoes, to which were afterwards added, thanks to the Europeans, potatoes and even corn. Though aristocratic women might, under certain circumstances, possess vast territories and have numerous subjects;[5] yet queens themselves, like other wives, were obliged habitually to do agricultural work when they were under marital control. Thus the wife of that chief Shongi, before alluded to, who possessed a large district, laboriously cultivated the ground, though she was blind.[6] Another, the principal wife of a chief called Koro-Koro, zealously dug up the soil with a small wooden implement to plant sweet potatoes.[7] For in all primitive races woman has been the earliest domestic animal of man.

The agricultural implements of the New Zealanders were all wooden, few in number and very simple. The principal was a stake, about seven feet long, sharpened at one end, and furnished with a cross-bar near the bottom, whereon the foot could be pressed, the better to drive in the point.

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[1] Darwin, *Voyage of a Naturalist*, 307.

[2] *Voyage de l'Astrolabe*, etc., 268.

[3] *Ibid.*, 199.

[4] *Ibid.*, 373.

[5] *Ibid.*, 315.

[6] *Ibid.*, 300.

[7] *Ibid.*, 280.

It is important to notice this implement, called in New Zealand a *hoka*, for it is identical with that used by the ancient Peruvians in the cultivation of their fields. This point of resemblance may be compared with several others, showing that there were anciently, at least, some relations between Polynesia and Central America. In New Zealand, however, field work was not done entirely by women. All inferior persons of both sexes lent a hand. Sometimes the chief himself presided over the work. The labourers mutually aided one another; some turned over the soil; some pulled up the roots and brushwood, and made them into heaps to be burnt by others. There was division of labour.[1]

The agriculture of the New Zealanders, like that of all savages, was not intensive. Knowing nothing of the art of manuring or of the rotation of crops, they seldom cultivated the same patch of ground for two successive seasons; after a harvest each field must lie fallow for five or six years. It seems, however, that the mere fact of having cleared a bit of land conferred upon the clearer a certain right of property in the field, even when provisionally deserted;[2] but these long periods of desertion cannot have failed to make real property extremely unstable.

The fields under tillage were carefully enclosed, palisaded or protected by hedges.[3] Those of the chiefs were tolerably large; thus Chief Shongi had a piece of cultivated ground, about forty acres in extent, near his village. His field was well weeded and carefully palisaded. But this was a princely domain. Generally the dimensions of a New Zealand field did not exceed a few acres; it usually varied from one to ten.[4] In fact, the cultivated patches were relatively insignificant in extent compared with the vast spaces remaining untilled. Thus Shongi, the possessor of a field of forty acres, was lord and master of a district as large as an English county. Nevertheless, private property, with whatever restrictions, was already instituted in New Zealand, and it might be real or personal.

Personal property consisted of manufactured articles, domestic animals and slaves. These three categories of possessions gave occasion for commercial exchanges amongst the natives. In New Zealand, where there were hereditary domestic slaves, their price was not high. J. Marsden saw a chief buy a young and handsome slave for twenty baskets of sweet potatoes, and another for a hatchet.[1] Very often, also, domestic animals and manufactured articles belonged to individuals in their own right, and could be given or sold, *i.e.*, exchanged. Even women had the right to dispose personally of these exchange values, to which no great importance was attached. Marsden saw a chief, at a sort of market, buy a mat from a woman, who had doubtless woven it, giving her feathers in exchange.[2] Another woman wished to offer a very fat pig as a present; it belonged to her, she said, and probably she had reared it.[3] The Polynesians of all the Archipelagoes had evidently long been habituated to this primitive commerce by barter, as is shown by the eagerness with which their *pirogas,* crowded with folk ready to exchange anything for nails, red feathers and other trifles, surrounded the first European ships. Here again it seems as if personal property began with manufactured articles, *i.e.*, those which were manifestly the result of individual activity.

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[1] *Voyage de l'Astrolabe*, etc., 64.
[2] Thiercelin, *Journal d'un baleinier*, ii. 15, 80.
[3] Cook, *First Voyage*, i. 313.—*Voyage de l'Astrolabe*, etc., 132.
[4] Cook, *ibid.*

Real property also was already to a great extent individualised. Yet it is important to remark that only cleared and tilled patches of land were appropriated. Ground under cultivation was carefully looked after, and enclosed with hedges or palisades. I have spoken above of fields in New Zealand. The like existed in all the archipelagoes. At Tonga, each chief's house was situated in the midst of a plantation, and surrounded by cabins, used as servants' quarters. A well-kept hedge enclosed the whole, and usually the precincts could only be entered by one single doorway, the door being fastened on the inside by a wooden bar that could not be opened from without.[4] The desire for private property was already so developed amongst the Polynesians that sometimes the trees in these cultivated lands had each its owner, who was not the owner of the soil.[5]

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[1] *Voyage de l'Astrolabe*, etc., 132.

[2] *Ibid.*, 178.

[3] *Ibid.*, 180.

[4] Cook, *Third Voyage*.

[5] W. Ellis, *Polynesian Researches* (1859).

We must stop to weigh this fact; it may serve to throw light upon the constitution of property in Polynesia. Let us note that the like is to be met with in various countries, *e.g.*, nowadays in Brittany, where it is a survival of what was formerly called "domain congéable," tenancy at will, which established a very clear distinction between the soil, the foundation, and what this soil supported: trees and buildings. In the Brittany of to-day it is very common for the "edifice," as it is called, to belong to the farmer, and the "fonds," the soil on which it stands, to the principal proprietor. This division of property certainly answers to the radical distinction, formerly made under the clan system, between the inalienable soil, over which the community held eminent domain, and the trees planted or dwellings erected by those who had the temporary usufruct. The same way of looking at things may again be perceived in the distinction that we have already noticed between the soil, held in primitive times to be unsaleable, and what may be called industrial property, weapons, utensils made by the individual himself, domestic animals he has reared, slaves he has captured; all of them things to which the public opinion of the clan or tribe willingly recognised the individual's personal right.

We are now able to form a tolerably exact idea of the right of property in Polynesia.

We are informed, in a general way, that there were in New Zealand three sorts of landed proprietors: the tribe, the family and the individual.[1] Let us clearly understand this. The tribe possessed, and above all had in the past possessed, the eminent domain. Little by little this right had been usurped by the chief, who had become a petty despotic monarch, by a series of encroachments and seizures of exchangeable values and movable property. Still the right of hunting and fishing remained common to all; cultivated lands alone were individually appropriated, but only to a certain extent; for the rotation of crops and the art of manuring were not yet dreamt of; a single crop exhausted the soil for five or six years, and the seed must next time necessarily be sown elsewhere. Thus the cultivators could not claim property in aught but the crops, or at most in the trees which they had planted, and found grown larger when they returned to improve a patch formerly deserted. But the patches themselves were cultivated in common; they belonged to families, still much resembling clans. Only these clans, these great families, often went on to make allotments amongst their members, and it might have been said, with a certain amount of justice, that in Polynesia each new-born child had, by the mere fact of birth, a right to a part of the estates belonging to the family.[1] We shall find this kind of family property and allotment in other places.

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[1] R. Taylor, *New Zealand and its Inhabitants* (1870), 344.

The right of the new-born was sometimes so fully admitted, that in theory they succeeded their fathers from the very moment of birth. At least it was thus in the Society Islands, in the case not only of estates but of political power.[2] *De jure*, the first-born son of a chief replaced his father directly he was born. From that time forth the father was reduced to the functions of regent, and must render homage to his successor still at the breast, in whose presence he could not remain without stripping himself to the waist as a sign of inferiority.[3]

The allotments, of which I have before spoken, naturally took place under the direction of the most influential personage in the group, clan or family; and it is allowable to suppose that the right of bequest arose out of this custom of allotment. Indeed, the man who before death divided the movables belonging to himself personally, or to the common stock, between his kinsfolk, the members of his family or of his clan, made, after all, only an allotment very much like those over which he had several times presided in the course of his life. Now this right of will-making or allotting was in full force at Tahiti. Before their departure, the dying made known their last wishes to the kinsfolk gathered round them, and these directions were generally held sacred.[4]

We shall come more than once again upon this right of bequest, so opposed to the equality of the primitive tribe, and a proof that the whole social organisation is becoming impregnated with monarchic customs. Even if we consider this right as an allotment *in articulo mortis*, it is curious to meet with it amongst a race so savage as the Polynesian. The fact must be connected with the equally precocious inclination of this race for private property. Neither one nor the other generally appear until a further stage of political and social evolution has been reached. It has even been often asserted that they are the sign and seal of a superior civilisation, but the example of the Polynesians is enough to prove the reverse.

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[1] Taylor, *loc. cit.*

[2] Ellis, *loc. cit.*, ii. 346, 347.

[3] Cook, *Second Voyage*.—Moerenhout, *Voy. aux îles*, etc., ii. 13, 15.

[4] Ellis, *loc. cit.*, ii. 362.

The facts I have just enumerated will, I hope, give a fair idea of the right of property in Polynesia. In these archipelagoes, which have already furnished sociology with so many precious materials, we find property in the very midst of its evolution. Primitive equality has been wholly left behind. Chiefs and nobles have created privileges for themselves, generally based upon wealth. Thus at Nukahiva a man was made chief only upon condition of possessing many cocoa-nut and bread-fruit trees. Nevertheless, the ancient collective property still exists. Each tribe still claims its hunting-ground, and all land not under tillage is used in common. Moreover, the cleared patches only represent a relatively trifling portion of the tribal territory, and are of necessity forsaken when their fertility is exhausted; finally, it does not seem that they are ever alienated. The Polynesian islanders have borrowed from Europeans the idea of making their land an article of commerce, but it is by no means certain that they have ever intended to transfer the soil in perpetuity. Most savages, and even many barbarous peoples, have a difficulty in conceiving the idea of the sale of land, of putting the ground on a par with movables. In the European colony of New Zealand it even seems as if savage ideas about property had influenced the Europeans, for the Colonial Government generally makes only temporary concessions to the immigrants, though for long periods, thus reserving to the community the enjoyment of the surplus value certain to accrue.[1]

When English missionaries induced the New Zealand chiefs to give up to them certain pieces of land, the chiefs doubtless thought they were letting some uncultivated ground, to which they attached little importance. They exercised rights of eminent domain over a very large territory, and agriculture, in the eyes of these warrior princelets, was a thing of no moment. Their minds were otherwise occupied.

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[1] Thiercelin, *Journal d'un baleinier*, ii. 174.

In the reign of George IV., a New Zealand chief, named Hongi, was taken to England by some missionaries. He was made welcome, and set forth again for his native island laden, by the king and various religious societies, with useful and civilising presents: agricultural implements, tools, a variety of seeds. All these gifts were utilised by Hongi in an original manner, unforeseen by the donors. During his stay at Sydney he exchanged all this peaceful paraphernalia for European arms and ammunition, and immediately upon his return to his own people, declared war against a rival tribe. His superior arms secured him an easy victory; after the first encounter, three hundred enemies were cut up, broiled, roasted and eaten upon the field of battle, according to ancient Maori custom. Hongi, making use of his princely privilege, sucked the warm blood of the mortally wounded rival chief, and ate his eyes, especially the left eye, that he might incorporate the qualities wherewith the vanquished man was endowed, and by assimilating his shadow duplicate his own soul.[1]

The fact is typical. It clearly shows how modest was the part still played by agriculture in the Polynesian tribes, and consequently that the appropriation of patches, cleared and deserted one after another, was of little importance and must have been precarious. The main resources were fishing and the roots of edible ferns. Fishing in general was the work of the men; the women collected shell-fish and dug up roots. Sweet potatoes from the cultivated grounds merely varied the bill of fare, and the grand banquets were cannibal feasts upon the field of battle.

Such at least was the system in New Zealand. In the better-supplied archipelagoes, where there were bread-fruit trees, cocoa-nuts, bananas, etc., agriculture, and more especially arboriculture, was more developed, and the inclination for private property had a wider scope; but no one had conceived of property in the Roman sense, with the right to use and abuse, and, above all, to sell. The individual appropriation of the soil was merely that of usufruct, since the land must long lie fallow, and extensive culture was a necessity.

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[1] Taylor, *New Zealand and its Inhabitants*, chap. xxi. (quoted by Henry George in *Progress and Poverty*).

We have seen that even in the equal tribe of primitive ages, in the midst of the communal system, individuals were granted a more special right of property in the weapons and utensils they had manufactured with their own hands, and had employed entirely for their personal use. These articles were held as in some sort directly depending upon the individual, who, it was believed, had communicated something of his own life to them, and often the attempt was made to furnish him with them when he entered, as a shade, upon a future existence. This was the psychic germ of personal property, a germ which mightily grew and fructified. To extend the idea of personal appropriation from the weapons a man had made to the tree he had planted, and the plot of ground he had disforested and sown, no great effort was required; but when this had been done, private property was instituted and had only to grow. At first, however, it was humble and precarious enough. The more or less completely cleared patches were insignificant in extent, and the wide hunting-ground still remained common. The cultivation of the soil was a servile task confined to slaves and women. The free Polynesians hunted, fished, braved the perils of the deep, above all, they carried on wars.

Besides, a number of communist customs continued to flourish. There were free depôts of weapons and victuals; there were nets, the magnificent seins of New Zealand for example, also for common use; sometimes there were common houses, and even the right to take a share in the fish caught by others and in the meals of others. Finally, numerous kindred associations, much more like the primitive clan than our small paternal family, held possessions in joint tenancy, the members of the group satisfied to share its property amongst themselves.

Allotments naturally took place mainly under the direction of the most important member of the association, and it seems probable that the right of bequest has arisen from this prerogative. Thus, in the most primitive days of Rome, a will was simply a last arrangement, an allotment ordained by the dying person. Understood in this way, under the more or less communistic system of the *gens*, clan or large primitive family, the right of bequest is no longer unreasonable, and escapes the just criticisms it may call forth when an excessive individualism has well-nigh effaced even the traces of primitive solidarity, and given to each individual holder of a large fortune the liberty to create by will, guided merely by his own caprice, one or several privileged persons.

CHAPTER V.

PROPERTY AMONGST MONARCHIC TRIBES—(*Continued*).

I. *Property in Melanesia.*—The monarchic tribe amongst the Papuans—The chief's power in New Caledonia—Joint-tenancy of tribal territory—Common fields—Privileged lots—Allotment—Forced labour for the chiefs—Collective trading for the chiefs.

II. *African Races.*—Ante-Saharian and post-Saharian Africa—Berbers, Greco-Romans, Arabs—Black native Africa.

III. *Property amongst the Hottentots.*—The Hottentot tribe—Bovine and feminine property—Power and wealth.

IV. *The Nascent Monarchic Tribe.*—The negro tribe on the Gaboon—Despotic kinglet of the Footah-Djallon—How he enriches himself—Principal modes of property in native Africa—Nomad villages—Nomad agriculture—Private property—Coffer-worship—Property in children, women, slaves—What a slave costs and brings in—A master's rights and duties—Importance of feminine property—Women's proprietary rights on the Gaboon.

V. *The Developed Monarchic Tribe.*—The Kafir tribe—Cattle currency—Political power founded on cattle—Kafir *bravi*—Fictitious offerings to the dead—Kafir helots—Poverty synonymous with slavery—Agricultural labour and women—Periodical allotments.

VI. *Genesis of Private Property.*—Sociological "reckoning"—The creation of exchange values destroys equality—Agricultural system anterior to domestic animals—Agriculture and slavery—Wealth and aristocracy—Hereditary castes—Violent origin of private property.

I. *Property in Melanesia.*

The Melanesia of the Papuan race is very different from Australian Melanesia. It is more civilised, has received Polynesian contingents, and can no longer boast tribal equality. In all the Melanesian archipelagoes, in New Guinea, New Caledonia, etc., the social organisation is complicated, "differentiated," as Herbert Spencer says.

At Viti (Fiji Islands) there used to be slaves, treated, often eaten, like beasts kept for labour and butcher's meat.[1] In New Caledonia there were no slaves, but the women took their place. A New Caledonian chief is generally so omnipotent that he and his family may now and again make a meal of one of his inferior subjects, and even prudently salt down pieces of him for a future occasion.[2] Moreover, the chief's power is hereditary in the male line,[3] and around the supreme ruler is grouped an aristocracy, also hereditary.[4]

But in the very midst of the existing organisation, some survivals of an ancient social state, during which communist habits largely prevailed, still remain. Generally the right of eminent domain has merely been transformed, and passed from the community to the chief, who represents and absorbs it. Thus at Viti the chiefs had the right to demand the aid of all the men in the tribe, not only in war, but in any work they chose to exact from them.[5] In New Caledonia, which is much better known to us, all the members of the tribe must lend their aid in making ready the chief's plantations, and, what is obviously a recollection of the past, they must also prepare those great common plantations where the yams for the yearly festival are sown.[6] In New Caledonia all our principal sorts of property may be recognised: first and foremost, that in the dwelling, a conical hut permanently erected in one spot and sheltering a family; then that in movables, weapons, utensils, provisions. In these latter, however, the community claims a final proprietary right, and on a man's death all movables, including the standing crops, are shared not merely amongst his kinsfolk, but amongst his friends, who junket and revel until all the victuals are consumed. In New Zealand, originally inhabited by Melanesians, a chief's dwelling was given over to pillage at his death in the same way. In New Caledonia they sometimes go still further, and set fire to the dead man's house.[7]

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[1] Thomas West, *Ten Years in S. Central Polynesia*, 409.

[2] De Rochas, *Nouvelle-Calédonie*, 206.—*Mémoires Soc. d'Anthrop.*, i. 414.

[3] L. Moncelon, *Questionnaire Sociologique*, 1886, 369 (*Bull. Soc. d'Anthrop.*).

[4] *Ibid.*

[5] W. T. Pritchard, *Polynesian Reminiscences* (1866), 370.

[6] L. Moncelon, *loc. cit.*

[7] *Ibid.*

The non-cultivated, by far the largest portion of the tribal territory, is common. The chief, despotic though he be, has only an indirect and joint right in it like the rest.[1] As for the cleared patches, they are individually appropriated, at least as far as the usufruct goes, and on the owner's death the enjoyment of his fields often passes to his heirs male, except the standing crops, as aforesaid.[2] There are, however, other lands cultivated in common, and the harvest from these is divided amongst all the members of the association.[3] But the tribe preserves its eminent domain over all land brought under tillage, and individuals sometimes have merely a life-interest in the usufruct of their portion. Under this system, everybody, noble or plebeian, has the enjoyment of a plot of arable land, the extent of which is in proportion to the social importance of the holder.[4] No trouble is taken to mark its boundaries. No one dares to encroach on another's ground, not even the chief, though he does what he likes.[5] The district is the owner of the soil, and the arable part of it is divided into as many patches as there are male inhabitants. These lots are unequal. The more considerable are conferred upon the chief, upon the regent, if there be one, upon each of the nobles, and the others upon the common people. If a child is born, a part of the common soil, in proportion to the social position his birth confers, is given to him. On a man's death his lot returns to the community;[6] but there is no periodic allotment.

As the New Caledonians have to a great extent entered upon a phase which it is now fashionable to call that of social "differentiation," aristocratic and hereditary privilege expand in their tribes unchecked. The nobles and the chief keep for themselves the greater part of the arable land; but they do not demean themselves by doing the actual work of tillage, and their wives, however numerous these may be, are not always sufficient. Besides, the sick, widows, old men, orphans, also find it impossible to turn their lots to account. That this additional work may be done, the nobles and chiefs impose upon the populace several days per week of enforced labour, and the number of these days can be increased at need.[1]

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[1] L. Moncelon, *loc. cit.* [2] *Ibid.* [3] *Ibid.*
[4] De Rochas, *Nouvelle-Calédonie*, 261. [5] *Ibid.*
[6] Thiercelin, *Journal d'un baleinier*, i. 296.

It is very curious to find amongst the New Caledonians, rude savages belonging to an inferior race, the principal features of the State Socialism organised with so much theoretical precision in ancient Peru. The New Caledonian community, or rather the chief who represents it, sometimes goes so far as to trade collectively. At Arama, where the French missionaries transformed themselves into cocoa-nut oil manufacturers, these pious traders bought the cocoa-nuts of private persons at a fixed price, half-a-crown a hundred; the oil they extracted was sold by the chief to the coasting vessels at a profit, which reverted to the community, personified by himself.[2]

We shall find this predominance of chiefs, this absorption on their part of the ancient rights of the community, elsewhere, in many countries and amongst widely different races. It seems as if this were a necessity of evolution, as if there were destined phases, through which all human societies must pass, when they succeed in raising themselves above entirely primitive modes of association. I have already drawn attention to the characteristic traits of the aristocratic tribe amongst certain native populations in America and Polynesia, and amongst the Papuans of Melanesia. We are now about to meet with a very analogous social condition in savage Africa, but with some divergences in different regions; for in the vast African continent all varieties of the negro type have not evolved with a like rapidity.

II. *African Races.*

Many races occupy or have occupied the vast African continent, still so imperfectly known. From the ethnographic, as from the geographic point of view, the great desert of Sahara divides this portion of the terrestrial globe into two very dissimilar regions. The whole of the relatively narrow Mediterranean belt has, from the most distant times, been inhabited by those ancient Berber peoples, who in the neolithic age appear to have occupied Southern Gaul as well as Spain, and of whom the Canarian Guanches were a colony. In the long course of ages these ancient Berbers came in contact with very diverse races. At an epoch anterior to all chronology, they met and mingled, in the valley of the Nile, with black races from Africa and Semitic emigrants from Asia, and there founded ancient Egypt. Then came the Greeks, the Romans, and finally the wave of Arab invasion. I only mention in passing the Goths, and the Franco-European colonisation, which as yet has not much influenced the mass of the people.

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[1] Thiercelin, *loc. cit.*, 302, 303.

[2] *Ibid.*, 305.

Later I shall have to speak of ancient Egypt, the Berbers and Arabs from the special point of view of the organisation of property. But for the moment, I have only autochthonous, negro Africa to consider; if indeed, after the innumerable migrations and interminglings of human races, we may still employ this somewhat chimerical word "autochthonous." Black Africa is itself far from having remained intact. In the East, Lybia, Ethiopia, Abyssinia have undergone many foreign influences, many admixtures of race. These regions are inhabited by peoples who are still barbarians but no longer savage, and whose institutions now possess very little originality. Even south of Sahara, in tropical Africa, the Berbers have modified the black races and their habits, with their will or against it, by mingling with or forcing themselves upon them. They have founded numerous colonies; above all, they have gone amongst the subject tribes and crossed the breed. The Fulahs, Mandingoes, Bambaras, and Jaloffs, Arab, Berber and negro half-breeds, are now Mussulmans. We cannot hope to find amongst them the ancient and primitive institutions of pure negroes. It is only in South Africa and round the Gulf of Guinea that we have a chance of meeting with the negro race in its most primitive state, the only one in which we are for the moment interested.

I shall therefore pass successively in review the Hottentots, the negroes of the Gaboon, and finally the Kafirs, who are somewhat akin to Ethiopians.

III. *Property amongst the Hottentots.*

We have very little accurate information as to the property system amongst the Hottentots before the European colonisation. The social structure of Hottentot tribes was but little differentiated, for slaves and aristocracy were alike unknown. Each small ethnic group, each kraal, was ruled by a chief, assisted by a council of elders. This chief's authority was almost nominal in time of peace; it was sometimes temporary, sometimes hereditary.[1] In some kraals the chief had to abdicate in favour of his son when the latter could overcome him in single combat.[2] His right was strictly that of the strongest. Amongst the Hottentots the main cause of private property, agriculture, was as yet unknown; but another existed, namely, cattle. The Hottentots were above all things herdsmen, and therefore nomads, for they must continually seek fresh pastures. Thus there could be no question about property in dwellings amongst them. Their movable huts were something like those of the Fuegians. A few poles, upon which reed mats might be hung, were all that was required. Being excellent hunters, the Hottentots had also their collectively appropriated territories, each claimed by some tribe; but a Hottentot tribe numbered only a few individuals. They had no idea of parcelling out these hunting-grounds and pasture lands into personal estates; but cattle is a movable, and can be easily accumulated in this or that person's hands, and thus private or family property is everywhere the usual consequence of pastoral life.

This had already taken place amongst the rude Hottentots. There were rich and poor in their tribes, and the possession of a numerous herd gave much social influence. It raised a man from the lower orders, and allowed of the purchase of several wives, for marriage was a purely commercial transaction. Kinsfolk willingly exchanged a girl for an ox or a cow.[3] Wealthy Hottentots were even prudent enough to buy little girls of six or seven, in readiness to replace the wives on active service, when an untimely old age should incapacitate them.[1] Women therefore, like the oxen for which they were exchanged, constituted a species of property, the only one which was sometimes common. Amongst the Namaqua Hottentots it now and again happened that some chiefs—*i.e.*, wealthy men, for power and wealth went hand in hand—put their little harems in common. Whether this were a moral survival of an ancient state of things that had passed away or merely a whim of the powerful who can do what they choose, the fact is none the less worthy of attention, for it indicates no repugnance to collective property.

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[1] W. J. Burchell, *Travels in the Interior of Southern Africa*, i. 363 (1822-24).—Rev. J. Campbell, *Travels in South Africa*.—Levaillant, *Hist. Univ. Voy.*, xxiv. 180.

[2] Campbell, *loc. cit.*

[3] Campbell, *loc. cit.*—Levaillant, *loc. cit.*, 348.

But the savage Hottentot herdsmen are not true negroes. Before the historic era human races were greatly mingled by numerous migrations, and some far distant ethnic adventure carried the Hottentots to South Africa and there left them.

IV. *The Nascent Monarchic Tribe.*

It is in tropical and Western Africa that the least mongrel negro populations may be met with, those least modified by the contact, mingling or domination of foreign races. It is in these regions that the black native is nearest to his natural state; and it is here also that we are best able to study the monarchic tribe in what may be called its nascent condition.

In this native Africa, equality is no longer an open question. Rich and poor, masters and slaves, are to be found, and dominating them all a despotic chief. Even on the Gaboon, sovereignty is almost hereditary,[2] but in the collateral line; for the maternal family still prevails. The power is transmitted to the departed chief's brother; the village, the clan, and especially its elders, have, however, a right of veto, and, if they offer opposition, the question of the succession to the throne is submitted to the general vote, to a *plébiscite*.[3] The power of these village kinglets is considerable; their right of eminent domain more especially is uncontested.

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[1] Levaillant, *loc. cit.*, 162.

[2] P. du Chaillu, *Equatorial Africa* (Popular Edition, 1890), 263.

[3] *Ibid.*, 263.

In the Footah-Djallon, if the king or chief has to lodge travellers or guests, he simply informs one of his subjects that he must vacate his house. The subject takes care not to disobey, and henceforth enters his own house but rarely, and then only to fetch some article he needs.[1] The king is naturally heir-in-chief. If the leader of a caravan dies in his territory, the king inherits all the stranger possessed; it escheats to him, and the heirs, even if they were with the traveller, are totally defrauded.[2] Over his own subjects the sovereign exercises the right of levying a first charge upon succession. If one of them dies, the chief confiscates all the goods of the defunct worth the trouble; to the children he leaves at most an infinitesimal portion as a gift.[3] The monarch's main object in life is to enrich himself. The most efficacious means of doing this is to go to war, *i.e.*, to surprise some neighbouring village, and cut the throats of the population, except the women and children, whom he carries off as slaves, and who become his property.[4]

But before going any further, it is important to make clear what is meant by property amongst the aborigines of Africa.

The principal modes of private property are already known there; but, like sovereign power, they are still in a primitive state. To begin with, the tribes, without being nomadic, are still but partially stationary. Their circular, conical huts are easily made, and easily demolished. Villages are constantly changing their locality, and the slightest cause is enough to bring about an exodus. It may be the fear of some one who is dead; for the shades of the departed are generally accounted malevolent,[5] especially those of chiefs. Or there may have been a dispute, a palaver, with a neighbouring village; or the village may be bewitched.[6]

Indeed the very necessities of primitive agriculture, which cannot be otherwise than extensive, make a change of place obligatory. The negroes are really agriculturists, and, however rude their agriculture may be, it plays a great part amongst their means of subsistence. Their methods of clearing are those in general use in savage countries. When they wish to make a field, the men go first of all into the forest to choose a suitable piece of ground. This done, they cut down the trees, and after the dry season, burn them. Then come the women, and sow manioc, maize, and plantains; but they never sow the same plot two years running.[1] With this agricultural system there can be no question of landed property in the sense we attach to it. A man can necessarily only claim the usufruct of the patches successively brought under tillage.[2] Nevertheless the idea of private property is already deeply rooted in the negro mind. Thus certain palms, used for the manufacture of a much esteemed native cloth, are planted round the huts and become private property.[3] Even when they go into the common forest to collect india-rubber, each family sets to work separately. Each seeks its own vines, and gathers in by itself the produce of its toil. Their luck is necessarily various, whence recriminations, quarrels, accusations of theft.[4] But amongst negroes the most important property is in movables, and is of several sorts. First and foremost come weapons, personal chattels, wares and commodities, especially ivory. To stow these things away they have coffers, if they can get them. Amongst the Commis chests are a sign, an emblem, of fortune, but only if they are provided with locks. These somewhat primitive strong boxes are regarded with as much respect as their better-constructed counterparts excite in our civilised countries, or even more, for it is a sort of religious veneration; thus their keys, even odd ones, are held precious; it is a much-desired honour to own a bunch of them.[5]

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[1] A. Olivier, Vte. de Sanderval, *De l'Atlantic au Niger par le Foutah-Djallon*, 150.

[2] Sanderval, *loc. cit.*, 99.

[3] *Ibid.*, 171.

[4] *Ibid.*, 143.

[5] *Ibid.*, 433.

[6] Du Chaillu, *loc. cit.*, 190, 291, 292, 316, etc.

In default of coffers, each carefully puts away the ivory, and other valuable articles he may possess, in hiding-places only known to his principal wife and a few tried friends.[6] The other and far more precious movables are living possessions. There are two sorts: one simply negotiable exchange values;

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[1] Du Chaillu, *loc. cit.*, 25, 27.
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] *Ibid.*, 205.
[6] *Ibid.*

the other, whilst it can be sold at need, also serves instead of cattle, which are generally lacking on the Gaboon.[1]

These precious, living valuables are children, women and slaves. Trade in children is general in black Africa. On the Guinea Coast it is so much a habit amongst fathers that the bigger children avoid the author of their being as far as possible; sometimes they even lay snares for him, and, if they can, retaliate by selling him instead. At least it was so when the European factories upon the coast openly carried on the slave-trade.[2] Often, in virtue of the rights created by maternal affiliation, it is the mother's brother who is the owner of his nephews, and negotiates their sale.[3] Children are so closely assimilated to other private property that quite recently a kinglet in the Footah-Djallon, who had received presents from a French traveller, offered him in exchange a lot comprising an ox, two pigs, four fowls and one of his sons, aged twelve. When the traveller refused the latter article, the chief supposed that it did not seem valuable enough, and in its place offered a choice of his three daughters of sixteen or seventeen.[4] Evidently no sensible difference is made between children and slaves; only the latter are expected to work.

Throughout these regions free men hold work in abhorrence and contempt. Their ambition is to live nobly, *i.e.*, to do nothing, and to be well fed. The slaves and women are thus constrained by their owners to perform all the agricultural labour. In the Footah-Djallon it is a very good investment to buy slaves. The value of a captive is about £2 12s. in our money. The purchaser must, besides, feed him for the first year, at an extra expense of from £1 4s. to £1 10s.;[5] finally, he must buy him a wife. But after this the implement of labour is complete, and soon becomes profitable. The couple are allowed two days a week, Saturdays and Sundays, *plus* the nights, to till a plot which costs nothing and is enough to feed them. The rest of their time belongs to the master, who, without any further provision for the wants of the servile pair, profits by their toil, which can sustain three free persons in *dolce far niente.*[1]

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[1] Du Chaillu, *loc. cit.*

[2] Giraud-Teulon, *Origines du Mariage*, 431.

[3] *Ibid.*, 266.

[4] Sanderval, *Foutah-Djallon.*

[5] Du Chaillu, *loc. cit.*, 264.

In some tribes on the Gaboon the master has a right to half of the game his slave takes in hunting, to one tusk of an elephant he has slain, for instance;[2] elsewhere he is free to take everything, even to confiscate the presents the slave may receive,[3] for it is by the master's good pleasure that the slave owns anything. He is the master's chattel, has no more right to property than to liberty, and in return, as happened in ancient Rome, he is not responsible for his ill deeds. His master must shield him,[4] and take upon himself the damage he has done.

Thus the African slave is bought, owned, kept and exploited like a domestic animal. Cattle, as we have already seen, are almost completely lacking in these vast regions, which are the peculiar haunt of the true negro race. Where cattle do exist, they are not used for agricultural work in black Africa, and this is often the case in savage countries. A plough has not yet been dreamt of. The apparently simple idea of harnessing a cow or ox to the crooked piece of wood doing duty for a primitive plough seems to be very tardily conceived in the human brain. The savage agriculturist more often contents himself with putting seeds into holes drilled with the help of a stake. Later, much later, when he goes so far as to scoop out furrows, he uses a sort of embryo plough, a feeble piece of curved wood, which scratches up the soil, as it is dragged along by the earliest draught-cattle used by man, namely, slaves and women. The moist fields of ancient Egypt, the rice swamps of contemporary China were and are thus furrowed by slaves and women harnessed to a primitive wooden plough.[5]

Throughout negro Africa women and slaves concurrently serve as domestic animals. We know that everywhere women are bought and sold, exchanged or hired. They literally constitute a movable property, greedily desired and zealously accumulated. A man's wealth is measured first by the number of his slaves and then of his wives.[6] The wives, however, are not such forsaken creatures as the slaves; the clan to which they belong, the kinsfolk who have sold them, now and again interest themselves in their fate, and they are not always absolutely reduced to the level of servitude; it may even happen that custom recognises certain rights as belonging to them. That attributed to them by the Apingis of the Gaboon is quite peculiar, but it loudly proclaims that they are simply considered as exchangeable values. Thus when a man of the Apingi tribe falls in love with one of the wives of a neighbour, and if the woman herself wishes the change, he may appropriate her on condition of repaying to the husband-owner the sum, or rather the amount of goods, for which this latter had bought her.[1]

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[1] Sanderval, *loc. cit.*, 220.

[2] Du Chaillu, *loc. cit.*, 131, 132.

[3] Sanderval, *loc. cit.*, 210.

[4] Du Chaillu, *loc. cit.*, 183.

[5] Huc, *L'Empire Chinois*, ii. 344.

[6] Du Chaillu, *loc. cit.*, 205.

Amongst the Bakalai of the Gaboon the women till the ground as elsewhere, but the produce not consumed by their lords and masters is recognised as their property. A chief, met with by Du Chaillu, often told his wives to feed him well and take good care of him, but he left them all he did not deduct for his own personal use; and this surplus they were free to sell or keep for their own consumption.[2] Another kinglet often called his wives to him in the middle of the night and exhorted them to love him and feed him well; for, as he told them, he had given their kindred many gifts that he might obtain them.[3]

The tribes of which I have just been speaking are counted amongst the least civilised in Africa; yet they already recognise several sorts of private property. But though they are accustomed to agriculture, and are even mainly supplied with food by the produce of their fields, they have not yet thought of property in soil and subsoil as we understand it. Nevertheless, they have long passed the stage of primitive communism, and the ancient collective rights have been absorbed by a despotic ruler, who claims eminent domain, and is at once proprietor and inheritor-in-chief.

Before summing up the main features of the evolution which has ended in this state of things, and before pointing out its causes, I will carry my exposition a little further.

We have just seen the property system in the still embryonic monarchic tribe; it is now desirable to study it in a somewhat more advanced phase of growth. And a very complete specimen of the well-developed monarchic tribe, still in an extremely savage condition, is furnished by Kafir society.

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[1] Du Chaillu, *loc. cit.*, 351.

[2] *Ibid.*, 239.

[3] *Ibid.*, 171.

V. *The Developed Monarchic Tribe.*

The Kafirs have long ago given up the system of equality. They obey monarchic and extremely despotic chiefs, whose power is transmitted by heredity; they have servile castes and cattle, finally they are agriculturists and traders. Yet the Kafirs have no money, their cattle serve the purpose; and this four-footed currency has all the advantages and inconveniences of our own. It may be accumulated in great quantities in the hands of an individual, and give him enormous power. With money, that is, cattle, a Kafir can buy children, whom poor parents are always ready to sell;[1] with cattle, he can procure as many wives as he pleases, and having fairly and duly paid for them, he can do with them exactly as he likes.[2] Finally, with cattle political influence may be acquired; in fact, supreme power in Kafraria can only be retained by possessing numerous herds, or gaining them by successful raids. A chief's clients and warriors only serve him for cattle, and he needs a considerable quantity to satisfy his subordinates, and attach them to himself, even for a time. Cattle is money, that is to say, food, clothing, influence, everything. The bravoes who surround him pay court to the ruler, and serve him as blind and ferocious instruments, until they have enough cattle to buy wives and weapons; from that moment they emancipate themselves and make room for other starvelings. The chief must provide for the needs and hopes of all this following, and his hereditary herds will not suffice; they must be kept up and renewed. The renewal is accomplished by means of the gifts presented to him at the time of his circumcision, the taxes he levies, the fines and confiscations he ordains, finally and especially, by the spoils of his warlike expeditions.[3]

The eager desire for private property which already exists in Kafraria has altered the character of funeral offerings in a curious way. Primitive simplicity has been long left behind, and restitutions or gifts to the dead are not given with the honest sincerity to be met with in the earlier stages of social evolution. Moffat has given us a description of a Kafir burial, and its details are very characteristic. An aged kinswoman brought to the grave the dead man's weapons, his bow and arrows, his hatchet, his javelins, the seeds of various plants and other articles. Then she addressed the departed, saying: "Behold all that is thine!" But the exclamation was a mere form. In primitive ages all the articles thus offered to the shade of the deceased are buried, broken or burnt; but the Kafirs, considerably more advanced in civilisation, and therefore more thrifty, content themselves with simulated offerings. Thus, in the case I have just mentioned, after the old woman had held up before the grave all the things she had brought, she carefully took them away again.[1]

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[1] R. Moffat, *Missionary Labours and Scenes in South Africa.*

[2] Burchell, *loc. cit.*, ii. 553, 564.

[3] Dugmore, *Compendium of Kafir Laws and Customs*, 2 (quoted by Maine in *Early History of Institutions*).

In Kafraria slavery already exists, but it is generally collective slavery, somewhat recalling that of the helots in ancient Sparta. Indeed, amongst the Bechuanas there existed a whole forsaken and servile class, which had neither fields nor cattle, and lived upon game, wild fruit, roots, locusts, etc. Bechuanas of the upper class could requisition these unfortunates at their pleasure to help them in their great hunts, and, on these occasions, the collective serfs beat the country like dogs and with the dogs, carried the slaughtered game for leagues, and ate, like the hounds, the leavings of the feast. If these slavish beaters were required the next day, they were simply penned in the evening within a fold of hook-thorn bushes.[2] The least resistance offered by one of them to their masters' caprices was punished with death. When the missionary Moffat interceded for the Sauneys (the name they go by), the free Kafirs were astonished that he should waste his time in busying himself about creatures who, they said, "were dogs." Though everybody appeared to have the right to use and abuse these black helots, they nevertheless belonged individually more to one master than another. Each of them was dependent upon a special patron, whose protection at need he could implore.

[1] Moffat, *loc. cit.*, 308.

[2] *Ibid.*, 383, 384.

The name given to individuals of this lowest class is characteristic, and shows that Kafir society, though still extremely rude, is already based upon inequality of wealth. The men-of-all-work belonging to the free or aristocratic Kafirs were simply called "the poor" (Balalas, Sauneys), and they were serfs, as the others were masters, from father to son.[1]

The structure of the Kafir tribe has become highly complex. All the essential elements constituting great monarchical societies are to be found there: a hereditary chief, a wealthy class also hereditary, and which may well be called a nobility; finally, quite at the base of the social pyramid, a servile class. It does not, however, appear that Kafir serfs are generally employed in agricultural labour. This falls specially to the lot of the women, whom the men have no idea of helping in occupations they account inferior.[2] In Kafraria the men are particularly interested in what may be called the monetary cattle value. The care of herds is held a noble employment; cows are called "hairy pearls." This assuredly indicates that the practice of agriculture dates from a comparatively recent period.

In Kafir tribes private property is fully established, and fortunes in cattle are very unequal. The women of each family cultivate its fields, sow and gather in the corn, and crush it between two stones to obtain flour. All this work is done alone. Each in her own home; each family for itself.[3]

None the less do highly significant traces of the ancient communism still exist. Individual appropriation of arable land is not allowed, unless temporally and by right of usufruct. The chief or king possesses the eminent domain. It is he, and he alone, who can grant lands; but at most he gives a life-interest in them, and this as a special recompense to one of his captains.[4] As a general rule he divides and allots the portions of arable land every year between the freemen of the tribe.[5] I have already drawn attention to an allotment of the same sort in Central America, and we shall come upon the like custom more than once in the course of this inquiry. It seems to be correlative with a certain development of agriculture, with the moment when cultivated fields begin to trespass rather more than they ought upon the tribal territory, when they cease in the eyes of the community to be an inappreciable amount of the common lands, whether pasture or hunting-ground.

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[1] Moffat, *loc. cit.*, 8, 9.
[2] Burchell, *loc. cit.*, 564.
[3] Levaillant, *Hist. Univ. Voy.*, xxiv. 208.
[4] Campbell, *loc. cit.*
[5] Ch. Letourneau, *Bull. Soc. d'Anthropologie* (2e série), vii. 688.

VI. *Genesis of Private Property.*

The monarchic tribes just passed in review are not the only ones; but they are the most interesting with reference to the origin of property. The others, of which I shall speak in the next chapter, have undergone a more complete evolution; they are still nearer to the great despotic states. Their industry is more developed, their aristocratic organisation is better determined. They are better armed, have better tools, and consequently form more considerable ethnic coalitions.

But before speaking of these distinctly monarchic populations it will be useful to glance behind us. In these studies of the evolution of property we are making a great voyage of exploration round the world. To guide oneself in the vast field of sociological ethnology is as difficult as to follow a definite route in the solitudes of ocean. Navigators avoid losing themselves only by each day clearly determining the point they have reached. Like them, and for the same reason, we must now and again take the sociological reckoning. The monarchic tribes that we have hitherto studied are not yet very far from the stage of tribal equality. Certain of them are very visibly connected with it, and, thanks to these, we are able to trace exactly the genesis of private property.

We are first struck by one main fact, to wit, that their social and political transformation has only been the inevitable consequence of changes supervening in the property system. During the republican tribal stage, social equality and common property existed for two reasons: strict solidarity was a condition of existence for the group, and, moreover, there were as yet no values that could be accumulated and exchanged. As soon as these values existed, equality vanished, there were rich and poor, *i.e.*, aristocratic and servile classes; for political power was closely united with wealth, in fact, was simply its social expression. Of what sort were these earliest values capable of individual appropriation?

Not very long ago, when ethnography confined itself to the Bible and classical antiquity, it was confidently assumed that man, always and everywhere, had begun by being a hunter, was next a shepherd, then an agriculturist. Now we can no longer accept this gradation. Doubtless the first human hordes lived principally by hunting or fishing; but they were at the same time fruit-eaters, and willingly utilised comestible vegetable substances, nuts, berries, roots, etc. They needed no great intellectual effort to enable them to imitate nature by sowing some of the plants they found useful. These attempts were at first made on a very small scale; very little importance was attached to them; men continued to be mainly hunters and warriors; agricultural experiments were left to the care and toil of women. It was generally much later that in certain countries animals were domesticated; but there was nothing regular and universal in this progress; there was never a pastoral phase common to the whole human race.

The only exchangeable values were, at first, children and women. They might be exchanged, for frequent raids allowed of their being replaced if necessary; but slaves constituted the earliest capital admitting of important accumulation, and the institution of slavery only developed when difficult and toilsome work, especially agricultural work, needed to be done. Before this, folks preferred to kill, and often to eat the conquered; but when agriculture had acquired a certain amount of importance, slave labour was joined to that of women. Then agricultural operations became more extensive, and fresh capital capable of accumulation and negotiation was the result. Henceforward to be powerful a man must be rich, *i e.*, possess fields and, above all, "hands," those of women and slaves, to clear, sow and reap. From this moment the social hierarchy had a solid basis: individual selfishness. Societies were divided into rich and poor, and very soon the rich became nobles, obeying a single chief, who was the principal proprietor. Going from usurpation to usurpation, this last ended by becoming a being apart, sometimes a semi-divine personage. Soon he attributed to himself the eminent domain, formerly claimed by the community, and treated the common people with haughty scorn.

From this time forth the contention between rival tribes was no longer merely a struggle for existence; its object was often to gain riches, to capture slaves, exchangeable values. The robbery of neighbours was the grand source of power and wealth. At the same time the family, first maternal, then paternal, disengaged itself from the confused relationships of the primitive clan, and capital, generally very ill-gained, was transmitted from mother to son, from uncle to nephew, finally from father to son. Hence arose the institution of hereditary castes, and the individual separated his private interests more and more from those of the community. According to a commonplace dear to economists, the first origin of private property was individual work. Ethnographic sociology, on the contrary, brings numerous proofs to attest that private property of any degree of importance had its origin in violence and usurpation. The captive spared was at first the most important sort of capital, and the earliest agricultural work was done, far from spontaneously, by women and slaves. Doubtless, as we have seen in the foregoing chapters, the first idea, the psychic origin of private property, was the outcome of personal work, of the manufacture of weapons and utensils, fashioned by their owner, and buried or burnt with him; but this idea was quickly enlarged, and very early it was practically extended to all articles, to all beings, that the individual appropriated or retained for his own benefit, whatever the origin of their appropriation.

CHAPTER VI.

PROPERTY AMONGST MONARCHIC TRIBES—(*Continued*).

I. *Petty States of Equatorial Africa.*—The servile zone of Equatorial Africa—Survivals of the maternal family—The chief universal proprietor—How silence is imposed on despoiled property-owners—Monarchy of Uganda—Delegation of royal proprietary rights—Clearings and servility—Three kinds of movable property—Cattle, its importance—Rage for accumulation—Cupidity of eastern negro—Slaves—Slave raids—The slave as butcher's meat amongst the Monbuttus—The slave as exchangeable value and monetary unit—Communal survivals in Black Africa.

II. *Aboriginal Tribes of India.*—Slowness of social evolution—The aborigines are agricultural and monarchic—Savagery of Lepchas—Primitive agriculture—Primitive plough—Communal survivals—Common "long houses"—Sacredness of public storehouses—The clan owns the soil—Embryonic feudalism amongst the Hos, etc.—Slavery—Property system amongst the Naïrs and polyandrous Bhots.

III. *Mongol Tribes.*—Republican tribe amongst the Turkomans—Monarchic tribes of other Mongols—Serfdom in Mongolia—Communal survivals.

IV. *Private Property in Savage Countries.*—It entails inhumanity.

I. *Petty States of Equatorial Africa.*

There is a semi-savage, semi-barbarous zone, extending from the Gulf of Guinea to Madagascar, and including the region of the Great Lakes, where Berbers, and even Arabs, have partially mingled with true African negroes, and where monarchic tribes have developed into a number of petty states. In these little negro monarchies no trace of equality remains. The state, for it is a tribe no longer, is based on the caste system. Everywhere we find servile masses mercilessly exploited by one or several so-called superior classes, themselves the slaves of an omnipotent ruler, before whom they cringe like dogs, and whose whims are their law. I have elsewhere proposed to call this equatorial region *the servile zone*, and, from a sociological point of view, no name is so suitable; though the Bambaras of Kaata[1] and the Mandingoes[2] have attempted to moderate slightly, if not to curb, the king's caprices, probably because there is a considerable admixture of Berber blood in these districts.

Throughout the whole zone power is hereditary, generally in the male line, and with the right of primogeniture. Here and there, however, the ancient maternal affiliation still persists. Thus, amongst the Wasukuma of Eastern Africa, the sister's son of the deceased kinglet is chosen by preference as heir to the throne.[3] Amongst the Wazugura of the same region the maternal uncle owns his nephews, and can sell them if he likes. This avuncular right cannot be gainsaid, and may be exercised despite the protests of the father and mother thus set aside.[4] Loyalty in some of these tribes is so fervid, that the death of their petty despot is enough to cause the dwellers in a town to change their place of abode. They set fire to their huts, and establish themselves elsewhere. In a few months,[5] so rapid is the growth of tropical vegetation, long grass waves over the ruined huts and blackened heaps of rubbish.

Under such a system, it is quite natural that private persons should be debarred from owning any property save at the good pleasure of the supreme chief. He is paramount proprietor. Thus King Kamrasi, whose state borders upon Lake Albert Nyanza, boasted, as Baker tells us, that he was absolute master of all things, and, in his fits of liberality, unhesitatingly took the goods of any subject, to bestow them upon his favourites. If the despoiled individual ventured to complain, he was brought to reason by a torture called "the shoe," much like our ancient torment of "the boot"; sometimes he was even more effectually silenced by being put to death.[6]

The harem of Kamrasi's neighbour, the great Mtesa of

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[1] Raffenel, *Nouveau Voyage au pays des Nègres*, i. 389.

[2] Mungo Park, *Travels in the Interior Districts of Africa in 1795-97.*

[3] Richard F. Burton, *Lake Regions of Central Africa*, ii. 364.

[4] Burton, *loc. cit.*, i. 37.

[5] *Ibid.*, i. 122.

[6] Sir Samuel Baker, *The Albert Nyanza*, ii. 251 (1867).

Uganda, was so much overstocked that he thinned its population by sending three or four women daily to the shambles, and further, by inflicting feminine batches, of a hundred or so at a time, upon his various favourites. It was impossible for these dignitaries to refuse, and, as one of them said to Speke, "We either turn them into wives or make servants of them as we please."[1] These women of the royal harem are sometimes captives carried off in raids, and sometimes handsome girls, humbly offered by their fathers, with a view to gaining the good graces of the ruler.

We have before seen that, in negro Africa, the rights of the father of a family are unbounded; he is the uncontested owner of his children, unless their uncle disputes his prerogative; thus he can sell them, and does not hesitate to do so. It follows that when early infancy is past, father and son generally become enemies, as amongst most of the lower animals. This is as true of Eastern as of Western Africa.[2] But if the father is the owner of his children, still more has the chief, who disposes at pleasure of his subjects' life and property, the same right with regard to their offspring. This right he can, in Uganda, delegate to whom he will; King Mtesa, somewhat jealous of this royal prerogative, only granted it to a small number of persons;[3] but these favourites were then at liberty to assume a wreath of vine leaves, which entitled them to kidnap any child of tender age, and warned all loyal subjects that no resistance must be made to the kidnapper.

This regal proprietary right is not always confined to children, it often extends to their parents. Thus amongst the Wakilima of the Great Lakes, the ruler may traffic in his adult subjects or not, as he thinks fit. Like most African kinglets, he wields powers of life and death,[4] and, being absolute owner of persons, naturally also disposes of the soil they occupy. The king is almost always lord-paramount, and no one else can possess but as he may choose to permit. At Sakoto, anybody who desires to enclose land for his own private use must first obtain the sovereign's permission; only after this has been got is he at liberty to have the ground cleared and sown by his slaves of both sexes.[1]

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[1] J. H. Speke, *Discovery of the Source of the Nile*, 258, 307, 365.

[2] Burton, *loc. cit.*, ii. 333.

[4] Burton, *loc. cit.*, ii. 361.

[3] Speke, *loc. cit.*, 362.

Amongst the Wakilima, if the chief deigns to consent that a piece of land shall be cleared for his benefit, this is all that is required. The principal men and women are at his service. They anxiously study what may please him, and, at the merest hint, begin to till the ground he is good enough to point out. The work goes forward rapidly; the labourers strive to outdo one another, and whoever is guilty of leaving so much as a blade of grass upon this sacred field is punished by the fine of a bullock.[2]

In all cases the ruler resolutely claims a proprietary right in the soil of his little kingdom, and no foreigner can tread it without paying passage dues. "These people," says Burton, "have not the idea which seems prevalent in the South—namely, that any man has a right to tread God's earth gratis, as long as he does not interfere with property. If any hesitation about the *kuhonga* (blackmail) be made, the first question put to the objector will be, Is this your ground or my ground?" It is this pretension which constitutes the main obstacle to travelling in the interior of tropical Africa; it stops the explorer at every turn, obliges him to bring a caravan at his heels, carrying numerous bales of merchandise, and often ruins him long before the end of his journey. But however excessive a despot's power may be, he has, after all, need of his subjects, and therefore graciously allows them to hold possessions on sufferance. Subject to this restriction, three principal sorts of property exist in Central Africa, besides manufactured articles, weapons, ornaments, stuffs, etc. These are the produce of cultivated land, cattle and slaves. By consent of the despotic chief, these values are usually possessed in individual ownership; and the smaller the ethnic group, and the less consolidated the monarch's power, the more is the right of private property respected. In other words, the less the individuals composing the community efface themselves before him they account the greatest amongst them, the more importance attaches to personal possession.

These three main categories of movable and exchangeable values may be found throughout the African equatorial zone; but each of these varieties of capital, as the economists would say, is distributed in unequal proportions in the different districts. Amongst the very savage inhabitants of the Gaboon forests, cattle are rare, and there are but few slaves. The most important resource is agriculture, though it is still in a primitive condition, and the African variety of millet (*Holcus spicatus*) is mainly sown and gathered in by women.

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[1] Clapperton, *Second Expedition into the Interior of Africa.*

[2] Burton, *loc. cit.*, ii. 361.

Elsewhere—for instance, at Boosa, in the Niger Valley, and the neighbouring districts—the number of slaves increases enormously, and represents three-fourths,[1] or even four-fifths, of the population.[2] In Eastern Africa cattle take the first place. Sir Samuel Baker has given us the summary of a conversation he held on economic matters with a rain-making kinglet named Katchiba. "Without cattle," the chief told him, the natives could "procure no wives; milk, their principal diet, was denied them, and they were driven to despair; thus they would fight for their cattle, although they would allow their families to be carried off without resistance; cattle would procure another family, but if the animals were stolen there would be no remedy."[3]

Further east also, at Karagwah, herds constitute wealth. Large owners may be found there, possessing as much as a thousand head of cattle, and the usual effects of inequality of goods may be observed. In fact, the inhabitants are divided into two classes: the rich, the Wahuma, great cattle monopolists; and the Waanyambo, nobodies, plebeians, treated by the aristocratic capitalists like slaves. But these mighty men cannot by themselves protect their four-footed capital against the vile attempts of the hungry; accordingly, they have at their service an armed force of warriors, whose pay is a sufficient quantity of cow's milk.[4]

When endeavouring to trace the evolution of morals,[5] I pointed out how mercantile morality was finally reached by civilised societies, some of which have sunk under it. But this commercialisation of morals is not incompatible with a savage state. It will flourish in any society, civilised or savage, where the love of any sort of gain, the rage for accumulation, becomes the ruling motive, the mainspring of every act. This may easily occur in a savage country; but when it does so, the greed is displayed quite shamelessly, without any hypocrisy. Men are selfish without disguise; they have not yet bethought them of "whiting the sepulchre." They do not plume themselves on a lofty morality, and base souls are not masked by a fair exterior, tinted according to the rules of the highest art.

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[1] *Hist. Univ. Voy.*, xxv. 41.

[2] *Ibid.*, xxx. 273.

[3] Baker, *loc. cit.*, i. 378.

[4] Burton, *loc. cit.*, ii. 182.

[5] Letourneau, *Evolution de la Morale.*

Throughout this region of Africa power is obviously and openly bestowed by wealth,[1] and the most pitiless severity is used in the defence of property. Amongst the Bambaras of Senegambia, if a donkey indulges in an indiscreet nibble as he passes a cultivated field, his master must pay for the damage, as assessed by the owner of the field; if he does not, the animal is confiscated, and often eaten, for donkey flesh is a dainty amongst the Bambaras.[2] In these parts everything is paid for, everything is valued. Amongst the Wanyamwezi, when a wife dies without issue, the husband-buyer demands from the seller, his father-in-law, the sum he spent to obtain his mate, alleging that he has been deceived in the quality of the goods.[3]

As the traveller Burton remarks, whilst the Bedouin glories in treating a guest with hospitality, the East African forces you to pay and prepay for everything, and would leave you to die of hunger if you had neither beads nor cloth, the money of the country. "He will refuse a mouthful of water out of his abundance to a man dying of thirst. He will not stretch out his hand to save another's goods, though worth thousands of dollars," if he is not paid to do it. But, "of his own property, if a ragged cloth or a lame slave be lost, his violent excitement is ridiculous to behold."[4]

The Wajiji, says the same observer, expect wages for the smallest service, and demand beads for showing you the road.[5] Beads are one description of African money, and form a currency possessing a certain value. In this part of the country to ask for beads is like asking in Europe for a coin.

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[1] Burton, *loc. cit.*, ii. 181.

[2] Mungo Park, *loc. cit.*

[3] Burton, *loc. cit.*, ii. 23.

[4] Burton, *loc. cit.*, ii. 327, 328.

[5] Burton, *loc. cit.*, ii. 68.

The slave is the third great exchangeable value in Equatorial Africa. I am not, for the moment, looking at slavery as an institution, but simply considering the slave as a value, like cattle. There are various categories of slaves. Hereditary slaves, those who come of a servile stock, and are born in their master's village, are not held as altogether identical with domestic animals; they are to a certain extent protected by custom. But this is not the case with slaves of recent date, captives spared, persons enslaved for debt or crime, children who have been sold, etc. These are treated exactly like cattle. They are living money, and every man tries how much of it he can amass. At any moment, generally at the instigation of a kinglet, the men of a tribe fall upon some neighbouring village, burn the huts, seize the cattle, murder some of the men, enslave and carry off the rest of the population, to sell them again to an Arab slave-dealer, or that they may sow and reap for their captors. In Eastern Africa, according to Burton, the ambition of every negro is to have slaves, that he may no longer have to work himself, but may live at his ease.[1]

The Monbuttus of the Upper Nile go still further. It does not suffice them to make beasts of burden or exchangeable values of their prisoners; they treat them simply as butcher's meat, and, after a successful raid, drive off human herds for their cannibal feasts.[2]

When the kinglet is entirely despotic—as amongst the Wakilima, for instance, where the ruler has powers of life and death over the masses, and can traffic as he likes in his people—it follows that the subjects, especially the women, belong, first and foremost, to the sovereign, who disposes of them, gives or sells them at his pleasure, and keeps the children to add to his gangs of slaves. In this he imitates the ants, who carry off pupæ to recruit their servile caste, and take the trouble to rear their future servants.

On the west coast of Africa, and far into the interior, the slave, being constantly an article of commerce, has actually become money; everything can be reckoned in slaves, as everything is reckoned in cows amongst the Kafirs. The French, says Du Chaillu, count in francs, the Americans in dollars, the English in pounds sterling, the Africans in slaves.[1] Offences and wrongs are bought off, and wives are purchased with slaves. If a man has no slaves, he gives their value in ivory, ebony, barwood, etc.; the slave is the monetary unit.[2] Naturally, no one prides himself on his kindness to this human money. In the village itself, in time of peace, and if it is hoped that a good deal will be gained by slave merchandise, these chattels are treated with that small amount of care which a cattle-dealer might bestow upon the animals he had for sale; but if, after a raid, or in a caravan, the captives or porters cannot keep up, they are killed without scruple, simply that no one else may profit by them, or, at the very least, they are forsaken.[3]

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[1] Burton, *loc. cit.*, ii. 367-377.

[2] Schweinfurth, *The Heart of Africa*, ii. 93.

All these facts are so typical, so significant, that it is needless to enumerate others, as might easily be done. They reveal in all its hideousness the mental and social state produced amongst very rude beings by the selfish anxiety, the ferocious passion for private property. In these petty African societies the inhumanity is so great, the absence of solidarity so complete, the servility so degrading, that we cannot but believe that primitive republicanism has long been left behind by the negro populations. Yet man in Africa has not evolved otherwise than have the human types of other lands, as is sufficiently indicated by remaining survivals and traces of a vanished past.

In my *Evolution of Marriage* I have pointed out that maternal affiliation, exogamy, etc., are still extant in many an African district. In the present volume I have spoken of the periodical allotments of tilled or tillable ground in Kafraria. Vice-Admiral Fleuriot de Langle has taught us that similar customs yet flourish in the midst of tropical Africa, amongst the Jaloffs of the Guinea coast. In this region, as in Kafraria, the ground is still the common property of the villages, and every year the chief of each little hamlet, with the aid of his council of elders, presides over the redistribution of the fields to be cultivated, calculating the superficial area of the lots according to the needs of each family.[4]

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[1] Du Chaillu, *Equatorial Africa* (edition 1861), 333.

[2] *Ibid.*

[3] Burton, *loc. cit.*, ii. 368.

[4] E. de Laveleye, *De la Propriété*, 100.

The fact of these survivals, added to the still widely prevalent use of *totems*, would alone authorise us in affirming that the now monarchic tribes of Africa were once communal and republican, even if we were not already far on the way to establish that this has been the great law of political evolution throughout the human race. Africa has been one of the main creative centres of primitive man, and the negro represents one of the earliest types of the human species. If we consider that everywhere in Africa he is acquainted with the use of iron and of the bow, that everywhere he is an agriculturist, and almost everywhere a herdsman, it is allowable to infer that the origin of the African negro race dates from a very remote antiquity; that, for many thousands of years, this folk has forsaken the equality of earlier ages, without having the power to go beyond the monarchic tribal stage, except where better endowed foreign races have mingled with or invaded it, and, by an infusion of fresh blood, somewhat quickened its progress.

Amongst the aborigines of India, of whom I am now about to speak, and who have reached, or stopped at, an almost equivalent stage of mental and political development, we are somewhat nearer to a primitive condition. Accordingly, the remains of the communal system are there more numerous and in better preservation.

II. *Aboriginal Tribes of India.*

The Bengalese aborigines, still to be found in the midst of Hindoo civilisation, are by no means of pure race; for all the historic and prehistoric invaders of Hindustan have mingled, more or less, with these earliest occupants of the Indian peninsula. Nevertheless, the great majority of savages in Bengal are connected with that vast Tamil race, accursed of the ancient Hindoo poets, but still counting its representatives by millions. The existing aborigines are descendants of the Rakashas of the Rig-Veda, of the "monkeys" spoken of in the Rámáyan. The Tamils of the plain have almost completely adopted the civilisation and religion of their Aryan conquerors; but in the forest-covered hills the aborigines have retained most of their ancestral manners and customs. I have before spoken of the extremely slow advance of social evolution in its primitive stages, and I consider it legitimate to attribute an enormous duration to the savage period, through which the most developed human races have passed, and where others seem to be now at a standstill. The example of the savages of India fully justifies this supposition. However the excessive antiquity, at first ascribed to ancient Sanskrit literature, be curtailed by modern research, it is impossible to deny that it dates back some thousands of years ; for Brahmin civilisation was flourishing and long established at the time of Alexander's expedition. Though they have here and there submitted to Aryan influence, the aborigines of India have not yet passed through the primitive phases of mental and moral evolution. Moreover, their little societies, their tribes, are far from being copies of one another. They exhibit a series of gradations, from the rudest savagery to a sort of feudalism, and thus we retrace the stages of their general evolution. I have elsewhere[1] stated amidst which of these tribes the clan system still exists, and amongst which the maternal or even paternal family is already instituted. Here I have only their property system to consider. But first, this general remark : all these primitive populations, with rare exceptions, are agricultural and have hereditary chiefs. They have therefore long passed the republican tribal stage.

The Lepchas appear to be the most savage. They live mainly on roots and wild fruits, but make some attempts at agriculture, which oblige them to change the site of their villages at least once in three years, for by the end of this time the fertility of their cultivated patches of forest land is exhausted. Their agricultural processes are, moreover, very primitive, for they have not even a plough.[2] Following the example of their congeners, the Juángs, and a number of other savage tribes, they first burn the trees, and then sow sweet potatoes, or the great cereal of Eastern Asia, rice.[3] Amongst the Bendkars a primitive plough appears—*i.e.*, a sort of wooden hook, in two pieces. Only a few years ago a bit of iron was added as a ploughshare.[4]

Amongst many of the more advanced tribes relics of a primitive communal system are to be found. The Gopas, who are chiefly herdsmen, generally live in village communities, ruled by a hereditary chief, with the assistance of a council of elders.[1] Numerous tribes still have large common dwellings, extremely like Iroquois "long houses." Thus Chulikata-Mishmis villages consist of from ten to thirty houses, about 60 feet long by 12 feet wide. There is a straight longitudinal passage down the side of each, with little rooms opening out of it.[2] Amongst the Singhphos of the Assam frontier, the plan of an Iroquois "long house" is repeated with still more accuracy. Every Singhpho village contains about sixty houses, each 80 feet long by 20 feet wide. Within there is a long central corridor, opening upon a verandah at either end, with a series of rooms on each side. These houses are thatched. The villages, like ancient American *Pueblos*, are often situated in places difficult of access.[3]

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[1] *Evolution of Marriage*, 43, 117, 133, 313, etc.

[2] Dalton, *Ethnology of Bengal*, 101.

[3] *Ibid.*, 154.

[4] *Ibid.*, 150.

The Koupoúis, belonging to the Naga Group, have common granaries, in sheltered spots some distance from their villages. Here they collect whatever goods, provisions, etc., have value in their eyes. These storehouses are quite unprotected, but a theft therefrom is unknown, even in times of famine. They belong to the community, and to steal from them would be to rob oneself.[4]

The Pádams carry on an extensive and nomadic agriculture, like Redskins and African negroes, but they avoid removing their villages, contenting themselves with tilling the soil in the immediate neighbourhood of their dwellings. They let the land lie fallow to recover itself, and after some years return to the ground thus left untilled. In these tribes there is still strict solidarity, and when a man marries the whole community lends a hand to build his house, and completes the work in about eighty hours.[5]

The Tirours of Oude dwell together in big houses, where all is in common, and where individual marriage must be a very flimsy bond.[6] There are tribes in which the land is clan property, and the chief puts forward no claim to it.[1] Amongst the Mundas and Oráons the chiefs only hold their estates in right of privilege, and as the reputed descendants of the ancient founders of the village. If they desire others, they must pay rent,[2] and engage to render certain services to the community. Other tribes have, whether spontaneously or not, carried their political evolution further, and a sort of mediæval system has grown up amongst them. Amongst the Limbus and the Kirantis, estates are hereditary, and the owners only pay yearly taxes.[3] Amongst the Bhumij-Kols there are great seignorial proprietors, possessing from one to twenty manors, and under them, small tenants (Ghátwáls) paying a low fixed rent, from father to son.[4]

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[1] Dalton, *Ethnology of Bengal*, 315.

[2] *Ibid.*, 19.

[3] *Ibid.*, 10, 20.

[4] *Ibid.*, 51.

[5] *Ibid.*, 23, 26.

[6] J. Forbes Watson and J. W. Kaye, *The People of India*, etc. (1868), vol. ii. 85.

Here and there slavery exists, and occasionally is carried to great lengths. Thus amongst the Garos, two-fifths of the population belong to the servile caste. As in Africa, slaves form a movable value, capable of accumulation; a man's influence is measured by the importance of his capital in slaves, and each chief gathers round him a bodyguard of sixty.[5] Elsewhere the kindred community, so closely allied to the clan, has succeeded the latter. In Ceylon, at the beginning of this century, it was the family, and not the individual, that was supposed to marry; it was this collective unit that had children; and they belonged vaguely to the whole family by the same right as the domain, which was never divided.[6]

The polyandrous populations of India generally belong to the ancient races, and it is interesting to know what their property system is. It would be a mistake *à priori* to suppose it very different from that of polygamous or even monogamous peoples. Amongst the Naïrs of Malabar, where the clan system has not yet disappeared, landed property is transmitted through women, and never goes out of the clan. Indeed the privileged position of the polyandrous Naïr matron is insured by her office as proprietress in usufruct, and manager of the family estates. She represents the domain, which after her passes to her eldest daughter. Therefore, even during her mother's lifetime, the latter enjoys a certain amount of consideration. When the somewhat numerous husbands come successively to see their common wife, they are received like strangers on a visit, and may not even sit down in the presence of their spouse, the progenitrix and owner of the household. I have elsewhere observed that this consideration bestowed upon the polyandrous Naïr lady is more nominal than real, and that her brother is actually the head of the family.[1] But, in any case, the Naïr domain never goes out of the maternal clan.[2]

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[1] Dalton, *loc. cit.*, 294, 295.

[2] *Ibid.*, 247.

[3] *Ibid.*, 103.

[4] *Ibid.*, 176, 177.

[5] *Ibid.*, 58.

[6] Joinville, *Asiatic Researches*, vol. vi. 425.

Amongst another polyandrous people, the Bhots of the Himalayas, plurality of husbands does not hinder the establishment of private property. The fortunes of five or six husbands, generally brothers, are united in the person of the common wife, whose male children inherit conjointly, and indeed forestall their inheritance; for generally when several brothers are old enough to buy a joint wife, their fathers and mother give over their property to them in equal portions. This is done when the marriage actually takes place, and the parents only keep for themselves what they most need.[3] At first sight, it seems strange that there should be this division amongst the brothers, as they live together, and have a common wife. But fraternal polyandry, though usual in the country, is not compulsory; one of the brothers may, if he prefer it, enter upon conjugal relations with strangers. It appears, however, that Bhot customs as to the transmission of property are not strictly uniform, and often the common property of the fraternal, polyandrous household is entirely given up to the eldest brother by the parents, thus making him guardian of his younger brothers, the inferior husbands; except the youngest of all, who takes orders and becomes a Llama. The husband-in-chief, the principal proprietor, has to maintain his aged parents. If he dies, the eldest of the younger brothers moves up a step, and, in his turn, becomes chief of the other husbands. If, by any chance, this younger brother was not before his brother's death a joint husband, he must enter the conjugal association, on pain of disinheritance. The property is the first consideration. It cannot be had without a share, as principal husband, in the wife; nor the wife, without the property, or rather its management.[1]

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[1] *Evolution of Marriage*, 311.

[2] Giraud-Teulon, *Origines de la Famille*, 41.

[3] Communication from M. L. Rousselet, author of *L'Inde des Rajahs*.

III. *Mongol Tribes.*

Having spoken of the property system amongst the monarchic tribes of America, Polynesia, Melanesia, negro Africa, and the aborigines of India, it remains to complete my survey by considering the nomad Mongols of Northern Asia, and, finally, the Malays.

In nomadic Mongolia the republican tribe is scarcely now to be found, except amongst the Turkomans of Khorassan. They still live in little groups of one or two hundred families, guided by an elder, a "greybeard," who is at once counsellor and arbitrator, but is paid for his trouble, and subject, like the rest, to traditional custom. The nominal chief sets up no despotic claims, and would not be allowed to do so. "We," say the Turkomans, "are a people without a head, and we will not have one. We are all equal, and with us every one is king."[2] This system of equality doubtless formerly existed amongst the nomads of Mongolia proper, where numerous traces of an ancient, exogamous clan organisation may still be noted; but at the present day the Mongols have fully entered upon the phase of monarchic tribes. They have hereditary princes, with right of primogeniture, castes and sub-castes of nobility, and a servile class subject to the pleasure of the nobles.[3] The latter have unlimited powers over their serfs, including those of life and death. In Mongolia, as elsewhere, political inequality merely overlies inequality in economic condition. Private property is an institution, and is proportionate to social rank. The Mongols are mainly shepherds, and nothing more readily lends itself to an unequal division of wealth than pastoral life. It is merely at the pleasure of the noble that the Mongol serf owns his little share of live stock, the lord always has a right to confiscate it, if he chooses.[1] None the less, the survival of ancient communal habits may still be traced in Mongolia. Though the flocks as a whole are owned by the great proprietors, each individual, however humble, belonging to a group of tents, is in a measure interested in the profits of the undertaking, and has a minimum share therein, fixed according to the nature of his needs.[2] A feeling of solidarity is also disclosed by various Mongol customs: thus the dwellers in a group of tents are obliged to go in search of animals lost by travellers who have camped in their neighbourhood, and if they cannot find the beasts they must replace them.[3] Or again, any individual who communicates a contagious disease to others, even unknown to himself, is held responsible; in such a case he is liable to a fine. In fact, the equality of past ages still exists in manners and customs. The all-powerful noble and the powerless serf smoke together in the same tent, and converse with the greatest familiarity. Privileged Mongols have not yet come to believe that they are of finer clay than the common folk, over whom they nevertheless take upon themselves to exercise every sort of right.

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[1] Moorcroft and Trebeck's *Travels in the Himalayan Provinces*, i. 320 (1841).

[2] Arminius Vambéry, *Travels in Central Asia*, 310.

[3] Préjévalsky, *Mongolia* (1876), i. 74.

IV. *Private Property in Savage Countries.*

We have now inquired how the greater part of the populations living in monarchic tribes, of whatever race and country, regard property; and the result of our investigation is by no means favourable to the manner in which private property is understood by savage peoples. Always and everywhere, we see inequality of possessions coinciding with crying abuses of force and prerogative; everywhere the disinherited or despoiled are at the mercy of the well-to-do, who unscrupulously abuse their advantages. It is only here and there that we find the greater humanity of ancient custom still protesting against this mass of tyranny.

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[1] Préjévalsky, *loc. cit.*—Huc, *Voyage dans la Tartarie*, i. 271.

[2] Le Play, *Les Ouvriers européens*, 18, 19, 45, 50.

[3] Huc, *loc. cit.*, i. 99.

In negro Africa more especially, this iniquitous organisation of the monarchic tribe is displayed in all its horror. Yet even in the servile zone, incontestable survivals still proclaim that the communal clan once existed. Nowhere in the vast, dark continent can there be found to-day a single sociological specimen of the republican tribe; and it is likely that the despotic tribal system has flourished during an enormous lapse of time, without the race having succeeded in passing beyond it. Amongst the superior races we are soon to study, private property is likewise almost universally instituted, but its abuses have often been in a measure curbed by loftier moral development, by a higher intellectual culture. Nothing of the sort exists in Africa; respect for man has not yet been invented there, and brutal selfishness has unbounded licence. It is as if a huge sociological experiment had been made, demonstrating how far it is legitimate to connect the inclination for property with the instinct of self-preservation, with selfishness; and also proving that, amongst slightly-developed races, little capable of being brought to perfection, the institution of private property, so far from being a cause of progress and civilisation, is, on the contrary, an obstacle to all further evolution. Black Africa has been for many ages under the private property system, and grovels none the less in the most hideous savagery.

But primitive communism has not so completely perished in all countries where the monarchic tribe is in its vigour. Here and there it has offered a successful resistance, and braved the attacks of the powerful. In this case, it has merely been curtailed, and the tribes and clans transformed into modest village communities. The Malays at the present time still offer a very interesting example of this survival.

CHAPTER VII.

COLLECTIVE PROPERTY IN MALAYSIA.

I. *Property amongst the Malays and Insular Mongoloids.*—Diversity and mixture of races in Malay Archipelago—Property in the Pelew Isles—Property in the Caroline Islands—Aquatic nomads of Malaysia—Nomadic agriculture of Baduwis—Agriculture amongst Dyaks.

II. *Monarchic Power in Malaysia.*—The king of Bantam heir-in-chief—Property according to the Koran—Malay feudalism.

III. *Slavery.*—Origin of slaves—A master's rights—Categories of slaves—Serfs or "captives."

IV. *Common Property and Private Property.*—Family ownership—Marriage by *Ambel-Ana*—Village communities—Genesis of private property.

V. *The Javanese Dessa.*—Common rice-fields—Their allotment—Tendency to individualism—Periodic redistribution in the *dessa*—Genesis of private property—Inequality in the *dessa*—Private property in dwellings—Clearings and private property—Hereditary transmission—Accumulation forbidden—Advances made by the *dessa*—Common domain inalienable—Admission of strangers—Influence of wealth—The Dutch Resident—Growth of population in Java—Multiplication of *dessas.*

VI. *Property in Africa and in Java.*—Parallel between Africans and Javanese—The struggle for riches in Africa—Javanese solidarity—Moral influence of a system of mutual co-operation—On what the growth of population depends.

I. *Property amongst the Malays and Insular Mongoloids.*

It is not to be expected that the property system should be more uniform than anything else in Malaysia; for many races are mingled together in the lands where the Malay element now prevails. The most ancient occupiers of the soil would seem to have belonged to a black-skinned, curly-haired type, represented at the present day by the Veddahs of Ceylon, and certain so-called Tamil populations. Then came Mongol immigrants, who ingrafted themselves upon these swarthy races, and mingled with them. It is from this admixture that the many varieties of the Malay race have arisen. Finally, various chance contingents of Papuans, Hindoos, or Arabs have here and there again modified the type. Each of these very dissimilar ethnic elements had its own tendencies and aptitudes, its civilisation, its way of looking at property, and more than one trace of all these various influences is to be met with in modern Malaysia, and in those small archipelagoes which appear to have been, at least partly, peopled by Malays.

In the Pelew (Palaos) Isles, during the last century, the king appears to have still been general owner of the land. His subjects had no personal property, except the produce of their industry and toil. A man's house, his furniture, his canoe, were looked upon as his own; so was the field granted to him, as long as he occupied and tilled it; but each time he moved elsewhere with his family his piece of ground reverted to the king, who conferred it, as he thought fit, upon some other islander. "Thus each family occupied some land for their maintenance; necessity imposed this labour upon them."[1] The power of the supreme chief was very great, and he received servile homage. "His Rupacks or chiefs approached him with the greatest respect, and his common subjects, whenever they passed near him or had occasion to address him, put their hands behind them and crouched towards the ground; even if they were passing any house or place where the king was supposed to be, they humiliated themselves in the same manner, till they got beyond his probable presence."[2] These and other characteristic customs, such as the use of the betel-nut, houses built on piles, etc., certainly seem to attest the Malayan origin of the islanders of the Palaos Archipelago.

Though less obvious, the same origin is probable in the case of the inhabitants of Ualon, one of the Carolines, where communistic customs were also found, *e.g.*, great public buildings where the people assembled, and where they kept *pirogas* (canoes), and all implements useful to the community, particularly a little loom for making the stuff of which the *maro* was woven, this *maro* being a short garment much worn in the Pacific Islands.[1]

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[1] Henry Wilson, *Account of the Pelew Isles*, etc., *drawn up by G. Keate from the Journal of Captain Wilson* (1789), p. 320.

[2] *Ibid.*, 312.

Even less civilised folk exist in the Malay Archipelago itself. Finlayson tells us of amphibious Malays, who live in wretched little barges, each accommodating one small family. These luckless creatures subsist upon fish caught in the rudest of nets, and scarcely ever spend a night on shore. They go almost naked, and take no thought for the morrow; when chance brings them a hearty meal, they lie down to digest it, and do not stir until they are goaded out of their laziness by the return of hunger. All that falls into their hands upon the sea, by shipwreck or in any other way, seems to them a lawful prize.[2]

On land, in a thinly-populated district of the Bantam Regency, another very primitive folk are to be found. These Baduwis attempt no permanent cultivation, have no plough, and are acquainted with no private property but that in dwellings.[3] All savage Malays, however, are not such poor agriculturists. For instance, the Dyaks, of head-hunting celebrity, have discovered or adopted the rotation of crops. They first sow rice, then maize and other plants; but they have not yet bethought them of manure, and after their brief agricultural succession is finished, they let the field lie fallow for eight or ten years, during which time bamboo, etc., springs up spontaneously.[4]

Amongst the more civilised Malays we shall find the property system better consolidated; but before describing it, we must say a few words about the form of government.

II. *Monarchic Power in Malaysia.*

The power of the chiefs or rajahs is, or has been, absolute throughout Malaysia. Even now no one dares to stand upright in their presence.[5] Before the Dutch colonisation, almost every town was a petty state, ruled by a despot putting the theory of eminent domain in practice for his own benefit. At the time of the first Dutch voyages of exploration, the king of Bantam was heir-in-chief to the whole country, and a very greedy one. When a man died, the sovereign appropriated, not only his fortune, but his wife and children, whom he reduced to slavery. To avoid this evil, and exclude the rajah from the succession, children were married in their earliest years, at ten, eight, or even younger, especially the children of rich parents.[1] Once actually married, children could, according to the *adat*, inherit from their parents.

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[1] Duperrey, *Hist. Univ. Voy.*, vol. xviii. 175.

[2] *Ibid.*, vol. xxxiv.

[3] Emile de Laveleye, *La Propriété Collective à Java.*

[4] Wallace, *Malay Archipelago*, i. 70.

[5] *Ibid.*, i. 173-219.

This almost limitless extension of the sovereign's proprietary rights is common in monarchic tribes and states, large and small. In those parts of Malaysia where Islamism predominates, the ruler's excessive privileges are still further strengthened by religion. According to the doctrine of the Koran, the soil belongs to the sovereign, and, even at the present time, though the Dutch Government does not apply the principle of Islam with regard to property, except in the case of unoccupied lands, the natives always admit that the king or sultan can dispose of all land at his pleasure. Before the Dutch came, the princes, being owners of the territory of their states, divided it into fiefs, which they granted to vassals, called regents, in return for dues and military service. These regents farmed out their villages to tillers of the soil.[2]

A Malay Mussulman's idea about property was summed up in a few words by one of the Dutch residents twenty years ago—"The soil belongs to God the Creator, and consequently to His representative upon earth, the sovereign. The enjoyment of the soil is granted in general to the commune, and in particular to him who has improved the land, for as long as he and his descendants fulfil the conditions fixed by the *adat*."[3]

As a general rule, wherever the sovereign is held to be the great landowner, a sort of feudalism is the natural result; for the despot, who is theoretically supreme ruler, is practically obliged to give over to subordinates the improvement and care of the huge domain, which it would be beyond his own capacity to distribute. This domain is subdivided into great fiefs, with feudatories directly dependent upon the crown; each of these greater vassals has in turn his own lesser vassals; and last of all, at the base of the hierarchy, there are serfs and slaves, upon whom all heavy social labour devolves.

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[1] *Voy. qui ont servi à l'établiss. de la Compagnie des Indes-Orientales*, etc., i. 348.

[2] E. de Laveleye, *loc. cit.*

[3] E. de Laveleye, *De la Propriété*, etc. (1re édition), 60.

III. *Slavery.*

Slaves were formerly very numerous in Malaysia. As we have seen, they were mostly recruited from the persons confiscated as chattels, in virtue of the right of eminent domain. The Malay slave was possessed as a chattel, and he constituted an important exchangeable value. When a slave-owner wished to sell one of his stock, he offered him from house to house, just as he might a domestic animal. Moreover, a Malay master had a right to do anything whatever with his slave, except kill him. He could not put him to death without the consent of the king and regent.[1] The wealth of a Javanese lord was measured by the number of his slaves,[2] so each naturally had as many as he could.

The lot of slaves in Malaysia varied according to the character and interests of their masters. Domestic slaves were fed and clothed by their owners. Others fended for themselves by means of a sort of *metayer* system: they worked six days for their master, then six days on their own account, at a trade, or as fishermen, tillers of the soil, or hired day-labourers. Some took a field from the master, at a rent usually based upon the number of cocoa-nut palms on the ground. The ultimate fate of slaves whose bonds were thus relaxed was often extremely hard. The master insisted upon payment at all costs, and if the terms of the agreement were not carried out, the slave was sold or cruelly punished; for instance, he might have a heavy log fastened to him, which he must drag wherever he went.

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[1] *Voy. Comp. des Indes*, etc., i. 359.
[2] *Ibid.*, i. 355.

Serfs, "captives" of king or lords, were somewhat above slaves. They obtained estates on lease, and paid rent in rice or money.[1]

It is evident that this order of things resulted as usual in a political inequality corresponding to the unequal division of property.

IV. *Common Property and Private Property.*

This thoroughly feudal organisation was not completely established throughout the Malay Islands. Side by side with it, sometimes beneath, more often altogether outside it, there existed clans, free families and even proprietors by individual right.

The Malay clans no longer savage consist of distinct families; but it should be noted that these are usually maternal, as is common enough where the clan system is still in full vigour. It is the family that marries, wife and children belong to it, and the husband is in no way responsible for their maintenance. The family possessions, whereof the wife forms a part, are appropriated to this purpose, and they form, not a patrimony, but a matrimony, which is inalienable. On the husband's death, any personal effects he may possess revert to his maternal family; firstly, to his brothers and sisters, or, in their default, to his sister's children; never to his wife and direct posterity. If he wish to make over his property to his children during his lifetime, he cannot do so without the authorisation of his brothers and sisters. The maternal uncle, the mother's brother, fulfils the legal functions of a father to his sister's children. On his death, the family authority passes to his younger brother; but if there be no mother or mother's brothers, then, and then only, the father becomes the head of the family, if his children are still minors.[2]

Anciently there existed a sort of marriage, that by *Ambel-Ana*, which still further subjected the son-in-law to his wife's family; they had to answer for his crimes, laid hands on the

[1] *Voy. Comp. des Indes*, etc., i. 358.
[2] G. Teulon, *Orig. Mariage*, 200.

compensation if he were slain, and could drive him away, even if he had children.[1]

Where the organisation of the ancient Malay tribe has not been overthrown, for instance in the highlands of Padang, in Sumatra, the singular families I have just described are still grouped into clans; thus forming little social units, whose members are closely knit together, and dwell in the same village. But in these villages, despite maternal affiliation, there is no gyneocracy. It is the men recognised as heads of families who, in one united body, administer the affairs of the community. At their head is a chief, called the "lord" or "principal," but in reality a sort of president, who derives his rank from election. This is republican tribal organisation in its narrowest form; the political entity has shrunk to a modest domestic unit.

Property belongs to the association of families composing a village. When a new household starts in life, a dwelling is built for it beside the others; but the husband remains in the family whence he sprang; he has only the right to spend a night with his wife when he likes. In the day also, he may work in his wife's fields, and if he does so, she prepares his food and clothing. All the dwellers in the same village are considered to be akin, "fruit of the same womb." They are united by strict solidarity; none of them is forsaken, and the constant aim of the *adat* is to shelter the women and children from want.[2]

The inquiries made by the Dutch Colonial Government have procured us nearly complete information as to the mode of appropriating the soil, and have shown how private property in land has emerged in Malaysia from common property. In Sumatra, Celebes, etc., the soil remained in joint ownership as long as the culture was extensive and nomadic. But as agriculture advanced and population grew, the cultivated patches began to be transmitted by inheritance; though the community still reserved its eminent domain over the cleared ground, besides entire ownership of all waste lands.[3] At Java, in the provinces of Bantam, Krawang, and Preanger, woods and wastes are common property, cultivated fields private property. Whoever clears a plot of untilled ground becomes its owner, at least for a certain time. In the provinces of Cheribon and Tegal, the enjoyment of arable land belongs to whoever has cultivated it, and can even be transmitted by heredity, as long as the occupiers continue to till the soil. In Samarang, whoever clears waste land retains enjoyment of it for three years only.[1]

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[1] W. Marsden, *History of Sumatra* (1811).

[2] E. de Laveleye, *La Propriété Collective à Java*.

[3] *Ibid.*

There is nothing very original in this system; the facts are specially interesting, because they take their place beside numerous observations of like nature made amongst various primitive races. They are so much confirmatory evidence attesting that the genesis of the right of private property in land has been much the same in all parts of the world. If it be not a natural law, it is at all events a very general fact, that the soil has at first been everywhere in common, in joint ownership, and that private appropriation has largely arisen out of the progress of agriculture. But in Java collective property is far from having entirely disappeared; in certain districts it is more flourishing than ever; only the *dessa*, or village, has taken the place of the primitive clan, which it closely resembles.

V. *The Javanese Dessa.*

The *dessa*, or Javanese village, is composed of a group of houses situated in the midst of an estate owned in common. Each house is separate, and has an enclosure planted with cocoa-nut palms, bananas, and vegetables. A common hedge often surrounds the whole village. The *dessa* is based on the principle of common property in the soil, but it allows private property to a certain extent. Let us see how both are constituted in its midst.

The most important landed property usually consists of rice-fields, situated at a little distance from the village, and it is probable that this culture has largely contributed to keep up the communal system of the *dessa*. Rice only prospers on irrigated ground, and irrigation demands the making of canals and conduits on a large scale. Hence the double necessity of not cultivating scattered patches, and of working in association so as to effectually carry out the needful operations. And this has been done in Java. The irrigation works are executed at the united cost, and by the united efforts of the whole village. The harvest also is reaped in common, and is the occasion of feasts and public rejoicings.[1]

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[1] Laveleye, *De la Propriété*, 53.

Nevertheless, the collectively owned rice-fields are divided between different families, the allotted plots being granted in usufruct only. Sometimes every year, sometimes every two or three years, a fresh partition is made.[2] Here and there the periodical redistribution only takes place every five or six years, or even at longer intervals; occasionally the village goes so far as to grant a life-interest, diminishing the area of the lots in proportion, and specifying that the general village assembly retain the right to make a fresh allotment should they desire to do so.[3]

There is manifestly a common ground-work in the mental development of the men of every race. We shall meet with the village community in many other places besides Java, and everywhere we shall see it gradually tending in the same way towards individual appropriation. The periodic re-allotments take place less and less often, occupation grows longer and longer, and ends by becoming a life-interest. And when once this is reached, private ownership is at the door; it only needs that inheritance should be permitted or authorised.

In Javanese villages the little clans still live under the collective system, and the periodic redistributions are conducted in various ways; sometimes by lot, sometimes according to a fixed roll or register, containing the regular rotation of plots amongst those entitled to them. Often the village chief or head-man presides over the redistribution; sometimes the communal administration confides the business to a commission of experts; sometimes the inhabitants come to an understanding amongst themselves.[4] When the village population grows too quickly, or has become too large, division is not so easy, and expedients must be resorted to lest any one be wronged. The most usual is to cut down the size of the allotments, thus creating new ones for the support of the fresh households. But it is impossible to go far in this direction; when a certain minimum is reached the paring process must stop. When this happens, each family is granted a lot every other year.[1]

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[1] Laveleye, *La Propriété Collective à Java.*

[2] Laveleye, *De la Propriété*, 50.

[3] Laveleye, *Propriété Collective à Java.*

[4] *Ibid.*

The *dessa* is, however, by no means the abode of perfect equality. In the first place, larger plots are given to the chief, elders, schoolmasters, priests, and ditchers.[2] And, what is more, all the dwellers in the village do not participate in the collective property. To obtain a share some guarantee must be offered, usually the possession of a yoke of buffaloes or oxen. Every one has not this good luck; thus there are poor folk, proletarians, excluded from the allotment.[3] The rest, to whom shares are granted, only obtain them in virtue of the acceptance of certain obligations. When a commoner happens to emigrate, if he does not pay his quota of taxes, or shirks the forced labour falling upon him, the head-man takes his allotment from him, and even confiscates his heritage, if he has one. For in the *dessa* private property co-exists with collective property; it is represented by the family dwelling with its surrounding orchard, if in no other way.

Clearings give rise to another sort of private property, more or less nomadic in character. "Dry rice" (*Oryza montana*) is grown, besides that cultivated in fields irrigated at the common cost. For this it is needful, in spite of a rotation of crops, to let the soil lie fallow every three or four years. Moreover, in the forest beyond these dry rice plantations, clearings like those of savages are made. The underwood is cut away and the trees burnt; then holes are drilled in the ash-covered ground with a bent, pointed stick, and in these holes dry rice is sown. In the forest agriculture is entirely free, nomadic and extensive, and each year a new patch is cleared.[4] But outside the forest all clearing of waste land confers a right to a regulated, personal enjoyment of the usufruct, varying in duration according to the district. Often it is for only three years; sometimes for nine or ten; occasionally for life. But whatever the duration of this usufruct, the reward of personal labour, the patch of ground afterwards reverts to the communal domain.[1] Certain *dessas* go so far as actually to constitute positive and hereditary private property, but for this the consent of three-fourths of the commoners is needful.[2] The *dessa* often regulates clearings, and does not allow them to be undertaken without its authorisation. Indeed each clearing is actually an appropriation, not of collective, but of common property; it takes from the reserve of the association the waste lands and forests, where all the dwellers in the village have a right to pasture their beasts, and to cut wood according to their needs.[3]

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[1] Laveleye, *Propriété Collective à Java.*

[2] *Ibid.*

[3] Laveleye, *De la Propriété*, 51.

[4] Laveleye, *Propriété Collective à Java.*

I have not hitherto spoken in detail of the hereditary or commercial transmission of property, intending to devote a special chapter to this important question. But in the Javanese *dessa* hereditary transmission is so closely bound up with the organisation of the village community that a few words must here be given to it. The *heredium*, or hereditary estate, of each family is rarely divided. Usually it is assigned to one of the children, often the eldest son, sometimes the eldest daughter. Evidently the important point is not the person of the heir, who is mainly regarded as an administrator, but the integrity of the heritage. Where this is the ruling consideration, whether it be in Java, Japan, or amongst the Basques, sex is of no moment. Whether heir or heiress, the person selected indemnifies his co-proprietary kindred, his brothers and sisters, if they are of age. If they are minors they stay with him in the common dwelling. If all entitled to the inheritance be minors, then the head-man of the village manages the property until the majority of one of the children. A married woman cannot be heiress. Only her own share is refunded to her.[4] The dwelling and its enclosure are personal and hereditary property, but not with rights of use and abuse; on the contrary, these personal possessions are subject to many restrictions, dictated by care for the community. The *dessa* never renounces its eminent domain, and its rights as proprietor-in-chief are far from fictitious. Thus to take possession of a heritage in a *dessa*, it is needful

[1] Laveleye, *Propriété Collective à Java.*
[2] *Ibid.* [3] *Ibid.* [4] *Ibid.*

to dwell there, and to accept a quota of the dues and enforced labour imposed by commune and state. Plurality of estates is forbidden; no one may possess two inheritances at the same time; one or other must be chosen. The rejected house reverts to the commune, and the head-man adjudges it, sometimes to a near kinsman who is houseless, sometimes to an unrelated household just starting in life. Once put into possession, the heir cannot proceed to share the inheritance without authorisation, either from the head-man or the commoners. Deeds of gift are frequent, but never for the benefit of an outsider not belonging to the *dessa;* in fact, they are rarely made in favour of any one outside the family. Generally their only object is to regulate the succession.

Inheritance is in the maternal line, the patriarchal family being as yet unknown; but the *adat*, embodying that tyranny of custom so usual in all primitive societies, forbids the unauthorised division of property even within the maternal family.[1]

Property amongst the Javanese is, as we have seen, in a transitional period. The inclination for private property, so easily awakened in men of every race, is here confronting the existing common ownership. The *dessas* have already made room for it, and doubtless it will continue to grow. They usually draw a distinction between inherited estates, which must remain in joint-ownership, and cannot be sold to strangers, and possessions resulting from personal labour. They leave the owner of the latter the power to dispose of or alienate them, but not freely or without control; he must first obtain the consent of the head of the family.[2] This administrator of the family property can also, with the assent of the commoners, make an advance to one of his kindred to aid him in commercial or other undertakings. Needless to say that the borrower is held strictly liable for the return of the sum lent.[3]

As for the common domain of the *dessa*, it is absolutely inalienable, superior to all commercial transactions. Its integrity is rigidly preserved; it belongs to the public, and even the majority have no right to infringe upon it.[4] This rule is so well established, so deep-rooted, that the villagers seem incapable of conceiving of any other property system. When the Dutch administration was inquiring into forms of ownership in Java, the Commissioners did not always succeed in making themselves understood by the Javanese. When asked, "Are you satisfied with your collective system?" they did not know what to answer, and finally said, "Let the will of the authorities be done."[1]

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[1] E. de Laveleye, *Prop. Coll. Java.* [2] *Ibid.* [3] *Ibid.*

[4] E. de Laveleye, *De la Propriété*, p. 63.

It is inevitable that the members of a *dessa* should be more or less akin to one another, but this village community is based much more upon association of interests than upon consanguinity. The maternal family is fully organised, there is none of the confused kinship of early ages. The ruling preoccupation is care for the common interest, and the *dessa* readily admits strangers into its bosom, provided they fulfil its conditions and offer suitable guarantees. The Javanese village is not an independent political unit like a tribe. It is a purely economic association, humbly submissive to the state or government, whatever it may be. It bears the expenses, executes the forced labour, and pays the taxes, impersonal taxes levied upon the whole village. Capable and incapable being thus bound up together, it is for the general interest to have as few useless mouths as may be. To become a member of the co-partnership of the *dessa*, a man must possess a yoke of oxen; but if he have greater riches he is more highly thought of. The head-man is chosen for one year by those of his fellow-villagers who have a right to a share of the soil; and the choice of the electors is not solely guided by the consideration to which the candidate's age may entitle him; they also take his relative fortune into account, and the head-man is generally one of the well-to-do amongst them. On the other hand, the *dessa* asks no unpaid service of its chief, and grants him a larger and more fertile allotment than other people.[2]

The village community in Java is assuredly of ancient origin, but though prevalent throughout the island, it is by no means universal. It is four times as widely distributed as the private property system, but none the less is exceptional in the six most sparsely populated provinces. It flourishes in full vigour in the centre of the island, where foreign influence is less directly exercised.[1] The Dutch administration has had the sense to respect native customs, and has contented itself with placing a Resident beside every chief. He calls himself the princelet's "elder brother," never orders him about, and confines himself to making "recommendations." This Resident visits the natives, listens to their complaints, inspects their plantations, and endeavours to introduce agricultural improvements and new products, *e.g.*, coffee, the cultivation of which has extended widely throughout the temperate latitudes.[2]

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[1] E. de Laveleye, *Prop. Coll. Java.* [2] *Ibid.*

This intelligently directed system of collective tillage has produced extraordinary results. Though there is no immigration to Java, the annual increase of the population is as great as in the United States, yet the plague of pauperism is unknown.[3] Here are some official statistics: In 1780 Java contained 2,029,500 inhabitants; in 1808 the figures had risen to 3,730,000; in 1826, to 5,400,000; in 1863, to 13,649,680; in 1872, to 17,298,200. In fine, the population of Java has increased eight times in ninety-two years, and every thirty years it doubles itself.[4] This enormous increase, only possible in a country where the greater part of the soil is not yet under cultivation, results in the incessant formation of new villages; each *dessa* sends forth actual swarms. When a village population begins to vegetate, and when the allotments cannot be pared down any more, the overplus quit their native *dessa* and found another. In cases of this kind the mother-commune willingly makes the advances needed. The emigrant group of colonists choose a fresh site, unite their efforts and resources to create a suitable system of irrigation, and form new rice-fields (*Sawahs*), which being tilled and made fertile by the labour of all, naturally become the joint possession of the co-partners.[5] Thus a new *dessa* is created, and later it in turn will produce another by a like partition. The jungles vanish one by one, and men increase and multiply. It is instructive to compare the results of communal property in the Javanese *dessa* with the selfish African system described in the last chapter.

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[1] E. de Laveleye, *Prop. Coll. Java.*

[2] Wallace, *Malay Archipelago*, p. 94.

[3] E. de Laveleye, *Prop. Coll. Java.*

[4] E. de Laveleye, *De la Propriété*, 64.

[5] *Ibid.*

VI. *Property in Africa and in Java.*

The natives of the interior of Java and the blacks of Equatorial Africa admit of comparison, for both are at once cattle-keepers and agriculturists. It is true that the Javanese are more skilful in their cultivation, and use the plough; but their plough is very rudimentary, only fit for the moist earth of the rice-fields. Elsewhere, in their clearings, they proceed exactly as do the Africans. Before the advent of Europeans the social state was somewhat similar in both countries. The despotic sultans or rajahs of Java differed little from African kinglets. The Javanese populace submitted to their masters with the same docility as the negroes, both alike being easily reduced to abject subjection. In Java, as in Africa, slavery existed, and in both it was equally inhuman and commercial. Yet nothing can be more dissimilar than the social state of Equatorial Africa and Central Java at the present day.

In Africa we see savagery in all its horrors. Each village is at war with its neighbours. There is nothing but violence, rapine, murder, raids with the sole object of gaining ill-gotten wealth, mostly in cattle or slaves. The struggle for riches is unsoftened in method or purpose by any other consideration whatever, and it is at least as pitiless as the struggle for existence in countries where no moral or legal restraint curbs individual selfishness. In the very midst of these small savage societies the individual is alone, forsaken; chiefs trade in their subjects, husbands in their wives, fathers in their children, and sometimes children in their fathers.

In the Javanese *dessa*, on the contrary, most members of the community are bound to one another by strict solidarity; an elected chief represents and manages the common concerns; individual selfishness must give way to the general interests of the association. The weak are not oppressed, not even forsaken, and the main anxiety of the community is to protect the women and children. Moreover, the *dessa* in great part escapes a criticism deserved more or less by all communal systems. Individual initiative is not paralysed there; on the contrary, it is stimulated, for, besides the regularly allotted arable land, a personal incentive is offered to reclaim fresh soil, new *dessas* being formed by a sort of bi-partition, or rather budding. Will it be alleged that the difference in the social condition of African and Javanese cultivators springs from deep-seated differences of organisation, of race? But we have found surviving traces of the periodical allotment system in certain African districts, and thus it is to fortuitous causes that we must attribute the different fate of tropical negroes and Javanese islanders. Communism must at first have been established in both countries, but in Africa it has died out, whilst in Java, where agricultural associations have managed to exist, notwithstanding the despotism of the chiefs, it has been kept up. Union is strength, and we find such societies living and flourishing under the most tyrannous government. The ruler spares them simply because they regularly pay his taxes and do his enforced labour; in fact, because it is his interest not to dissolve them.

In the long run social condition creates morality, determines the formation of moral or immoral, noble or ignoble instincts. It is therefore unavoidable that the selfish African system should degrade the character of the race which submits to it, and revive in man the ferocious egoism of a wild beast. Whereas the organisation of the Javanese *dessa* cannot do otherwise than foster humane and sociable tendencies in people who have long lived under it.

It is, however, in the fluctuations of population that the noxious influence of the African system, and the beneficent action of the Javanese *dessa* come out most clearly. According to all explorers, the duration of African villages is very brief. These little ethnic groups cannot continue to exist, still less multiply. After stagnating for a while, each small aggregation disperses, is destroyed or absorbed by its neighbours. A traveller passing again through the country, after a short interval, often finds a waste and a few ruins where he left populous and flourishing villages. The Javanese *dessa*, on the contrary, is not only persistent, but prolific, and its colonies quickly change barren wilds and forests peopled with wild beasts into a fertile, thickly-populated country-side.

The speaking contrast between these two examples seems to prove that the too hasty institution of private property, at least amongst ill-developed races, produces disastrous effects, and that common property is greatly superior. The latter civilises men and creates more of them; the former destroys the population and fetters all mental and social progress.

The Javanese *dessa* has yet another lesson for us civilised folk. The growth of population in Europe is destined continually to decrease. In France, which in this respect is ahead of other nations, we see the birth-rate dwindling year by year. This means a speedy decline. In vain economists warn and moralists preach and adjure. Even legal measures of trifling import have been taken or proposed; for instance, the free education of the seventh child, which amounts to something, and exemption from the door and window tax, which is simply ridiculous. In questions of this nature economic necessity has always the last word. My end not being to propose legislative measures, I will content myself by repeating, with the economists, that the growth of population is necessarily regulated by the production of the means of subsistence; and I will add, contrary to economic dogma, by their just distribution. A human society easily maintains its position as long as children are not felt to be an incumbrance; its growth is rapid where a numerous family is an advantage in social competition. But in proportion to individual foresight, a community must inevitably begin to decrease as soon as children represent a heavy additional burden. The Javanese *dessa* is not in this case, therefore we see it multiplying with extraordinary energy. This interesting fact may be commended to the thoughtful attention of European legislators.

CHAPTER VIII.

PROPERTY IN GREAT BARBAROUS MONARCHIES.

I. *Origin of Great Barbarous Monarchies.*—Parallel between monarchic tribe and great barbarous monarchy—Castes in the barbarous monarchy—Theoretic importance of the social genesis of Mexico and Peru.

II. *Origin of Mexican and Peruvian Civilisations.*—How Mexico and Peru were first peopled—Racial unity in America—Cardiac anthropophagy in the two Americas.

III. *Property in Mexico.*—Primitive immigrations in the Anahuac: Toltecs, Chichimecs, Aztecs, etc.—Dr. Siguenza's picture-writing—Social evolution of Mexicans—Mexican feudalism—Distribution of landed property—Transmission of estates—Obligations of feudatories—Court nobility—Employment of Crown revenues—Communal *calpulli*—Obligatory work in them—Aztec agriculture—No pastoral phase—Cannibalism the result of greediness—Slavery in Mexico—Trade in Mexico—Taxes and forced labour.

IV. *Property in Ancient Peru.*—Paternal despotism of the Incas—An Inca's duties—Obey and work—Distribution of landed property—Authoritative communism—Obligatory marriage—Industrial requisitions—Idleness punished with death—Statistics registered by *quipus.*

V. *Social Evolution of Mexico and Peru.*—Parallel between the two empires.

VI. *Sociological Import of Peruvian Communism.*—The advantages of a state-providence—No individual initiative and little progress.

I. *Origin of Great Barbarous Monarchies.*

There is a close analogy between those great despotic states to be met with in every country at the dawn of the historic epoch and such monarchic tribes as we have been considering. The difference may be defined, in terms borrowed from the vocabulary of chemistry, as rather quantitative than qualitative. In both cases, the structure of the social body is essentially the same, the monarchic tribe is only a reduced plan of the despotic state, and the great barbarous kingdom is to the monarchic tribe what the new-born child is to the fœtus. Slaves, hereditary nobles, a monarch reigning generally by right of birth, but sometimes in virtue of the nobles' choice, these are characteristics found in both. In both social inequality is boldly accepted and shamelessly displayed. It is decreed from above. But the barbarous monarchy is a vast aggregation of human beings, amongst whom it has been necessary to avoid confusion by clearly determining the rights and duties of each, in a well-established social hierarchy. At the same time population has grown up in consequence of the great development of industrial civilisation; useful arts, especially agriculture, have been brought to much perfection; subsistence, no longer dependent upon the hazards of the chase, is well-nigh secure. Society is firmly established on a basis accounted immutable. The classes of the monarchic tribe, founded in principle upon wealth, have become aristocratic and rigorously exclusive castes. Almost always a sacerdotal caste has grown up beside that of the warriors, and beneath these privileged persons cringe subject masses, human cattle whose toil feeds the whole community. As social differentiation is perfected and accentuated, this inferior crowd generally splits into two main categories, plebeians and slaves. The first specially devote themselves to commercial and industrial occupations; the second are mostly employed in field-work.

This very general description roughly fits all the great barbarous states which first emerged from primitive savagery. We have not here to study their political organisation, but merely to scrutinise their way of understanding and regulating the rights of property. For this purpose I shall pass in review the most celebrated and typical, beginning with the ancient empires of Central America, Mexico and Peru. These are specially interesting to ethnographic sociology, because their origin is relatively recent, and therefore their connection with the preceding social phase of small monarchic tribes may easily be traced. The social evolution accomplished a few centuries ago upon the lofty table-lands of Central America must be an approximate reproduction of that which gave birth to those incomparably more ancient empires of the old world, whereof the origin is lost in prehistoric darkness.

II. *Origin of Mexican and Peruvian Civilisations.*

It is apparently to the Redskin Indians that the honour of having founded most of the great states of Central America is due. Hunters, nomadic by choice, and possessed of the most rudimentary agriculture, they must long ago have swarmed across the northern plains of America towards milder climes. The Central American table-lands are a highly favoured region, where tropical latitude is happily tempered by lofty elevation. Doubtless the rarefied atmosphere of great heights has grave drawbacks where human beings are concerned. The resultant state of tension is little favourable to great mental activity; but it is no obstacle to an average exercise of the cerebral faculties, and the Indians of Mexico and Peru have never risen above this medium level. Formerly, when it was held essential to reconcile facts at all costs with the tradition of Eden, and an enormous antiquity was attributed to the great American states, efforts were made to connect their civilisation with that of Egypt or Judæa, which, as we now know, had long sunk below the historic horizon, when, not many centuries back, the Mexican and Peruvian empires rose above it. The unity of race between existing American aborigines can now be scarcely contested. It is confirmed by their great likeness in anatomical characteristics, and also by the diffusion throughout the two Americas of special customs—*e.g.*, cardiac anthropophagy, or the habit of opening the breast of a vanquished foe to tear out and eat his heart. This peculiar cannibalistic fashion is still to be found amongst the Redskins of the extreme north.[1] The conquering Incas abolished it amongst the savage tribes they undertook to civilise,[2] and in the year 1600 a Dutch navigator, Olivier van Noort, alludes to the existence of the same usage amongst the natives of

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[1] Mgr. Faraud, *Dix-huit ans chez les Sauvages.*

[2] Garcilasso de la Vega, *Hist. des Incas,* vol. i. p. 336.

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Chili.[1] Finally, the Mexicans had made it into a religious custom whereby to justify their cannibalism. Other resemblances, less peculiar but still significant, may be remarked; for instance, the institution of totemic clans, general amongst the savage tribes subjugated by the Incas.[2] Certain of them, notably the Chirihuanas, had even clans, each of whom lived in a common dwelling.[3] The great states of Central America are certainly the work of American aborigines. In the foundation of Mexico Red-skin immigrants played a predominant part. It is not certain if precisely the same took place in Peru. The two empires appear to have been ignorant of each other, for the cultivation of the potato and the domestication of the llama remained peculiar to the kingdom of the Incas. Moreover, their political and social evolution, though preserving certain traits common to primitive American tribes, was accomplished very differently, as we shall see in studying the property system of the two countries.

III. *Property in Mexico.*

The table-lands of Anahuac seem, long before any definite historic date can be assigned, to have been a sort of promised land, contended for by successive hordes of northern immigrants. Without enumerating in detail the half-legendary chronology of those rude civilisations which succeeded one another in Mexico before the Spanish conquest, it is useful to note the three principal amongst them: first, that of the Toltecs, the most ancient, though only of relative antiquity; second, that of the Chichimecs, and a certain number of other northern tribes, who came to fill the wide gaps made in the Toltec population by a terrible epidemic; third, that of the Aztecs and other Nahua tribes, whom the conquerors found installed upon the Mexican plains, though they had only been there since about 1196. Six other kindred tribes must be added to the Aztecs, one of which founded the Republic of Tlascala.

The lofty regions of Central America were assuredly for long ages the Eden to which the Redskins of the north aspired, and towards which they ceaselessly wandered, sometimes in little groups, sometimes in vast masses. A celebrated picture-writing, from Dr. Siguenza's collection, formerly published by Gemelli Careri, shows in semi-hieroglyphic paintings the great migration of the Nahuatlacs, of whom the Aztecs formed a part. In their general appearance, costumes and weapons, the Indians depicted in this precious document are extremely like the existing Redskins.

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[1] *Recueil des Voy. de la Compagnie des Indes-Orientales.*

[2] Garcilasso de la Vega, *loc. cit.*, i. 27.

[3] *Ibid.*, i. 255.

The social evolution of the Mexicans passed through the usual phases. After having lived in communal tribes, in those bitter northern regions where strict solidarity was a condition of existence for savage peoples, the Redskins entered on a further stage of development when they were once established in the Paradise of Central America; their industry, and still more their agriculture, made great progress; the structure of their society became more complicated; there were rich and poor, nobles and plebeians, masters and slaves amongst them. The organisation of the Natchez tribe, which I have previously described, is a reduced plan of that of the Mexican empire. In the latter old and new were mingled and superimposed; the organisation was quasi-feudal, and yet clans were still in existence.[1] The monarchy was almost absolute, and yet, to a certain extent, it was elective, the sovereign being nominated by four great nobles. Affiliation in the male line, with rights of primogeniture, was a general institution; yet, at the king's death, his successor must be taken from his brothers or nephews, a relic of the maternal family.[2] The right of property was personal and hereditary, especially amongst the nobles; but very significant communal survivals still existed.

The emperor, as supreme chief, towered over the hierarchy, on the summit of which he was enthroned. He preserved the right of eminent domain, but granted fiefs to his subjects. The general distribution of the soil was as follows:—1st, a large portion constituting the crown demesne; 2nd, another considerable slice appropriated to the nobility;

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[1] Bancroft, *Native Races*, ii. 226.

[2] W. Prescott, *Hist. Conq. Mexico*, Bk. I., ch. ii. 14.

3rd, the remainder granted to the temples and tribes or clans. The royal demesne was continually increased by conquest; for the victorious sovereign always appropriated to himself a part of the wide lands of the vanquished.[1]

The estates of the nobles were either ancient possessions handed down from father to son, or rewards recently granted by the king, often gained by military exploits. The latter might be alienated, but with the express reserve that they must never pass to plebeians.[2] Other fiefs were inherited by eldest sons. Mexican feudatories were not compelled to pay any rent, but they must aid the sovereign in war, putting themselves, their vassals and their fortune at his disposal.[3]

Certain portions of the estates of the crown were conceded to court officials, who, in return, were charged with the maintenance of the king's residences and gardens, and the fulfilment of various duties about his person. When one of these gentlemen-in-waiting died, his official rights and duties fell to his eldest son If he died childless, his lands reverted to the royal demesne, or sometimes were given to the community of the district.[4] These personal tenants were in some cases under obligation to offer flowers and birds on certain occasions to the king, in token of homage. They had not only to keep up, but, if need were, to rebuild the royal palaces, and it must be remembered that Mexican structures, composed of porous and ill-laid stones, were not very durable.

The immense revenues of the crown were not all wasted in luxury. A good part of them were consecrated to works of public utility, and to the support of widows, orphans, and sick and aged persons,[5] as was done, but on a far larger scale, in Peru.[6] The survival of the ancient communal system, however, was more marked in the management and ownership of the folklands. These lands, called *Calpulli*, were measured and registered in such a way as clearly to determine the rights of clans, and even those of the wards and streets of towns.[7] The Mexican register was a painted picture, whereon was figured each domain with its boundaries, every description of land being indicated by a separate colour: violet for the crown, scarlet for the nobility, yellow for plebeian communities. By this means contests about landed property were forestalled, or at least easily settled.

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[1] Bancroft, *loc. cit.*, ii. 223.

[2] *Ibid.*, 225.—Prescott, *loc. cit.*

[3] Bancroft, *loc. cit.*, ii. 226.

[4] *Ibid.*, 223.

[5] L. Biart, *Les Aztèques*, 141.

[6] Bancroft, *loc. cit.*

[7] *Ibid.*, ii. 226.

Plebeian tenures were perpetual, inalienable, possessions in mortmain, and, what is specially noteworthy, were never owned by individual title. They were common estates, the usufruct of which was distributed according to fixed rules. Without ever owning the soil itself, every member of the community had a right to the usufruct of a portion of the communal domain, proportionate to his personal importance. This part he could not sell, but was allowed to let for a few years; for the community were specially desirous that no field should remain uncultivated. Thus, when the holder of an allotment let his ground lie fallow for two years running, he received a notice from the chief of his *Calpulli*, admonishing him of his carelessness. If he took no heed, the following year his lot was taken from him, and adjudged to a more diligent tenant. The possessor of the usufruct, on his side, if he had been assigned a barren plot, might complain, and efforts would then be made to find him a better one. If the tenant died childless, by which must surely be understood sonless, his share was declared vacant, and conferred upon another member of the community.[1]

To sum up, in these plebeian tenures the community took uncontested advantage of its superior rights, and it had in nowise bent its neck beneath the yoke of private property. Far from being the fiction it has become in so many countries and at so many epochs, the right of eminent domain was paramount, and private interests must give way to it. Moreover, the communes, the towns, were careful not to give over to private persons the enjoyment of the whole domain belonging to the group; they reserved a smaller or greater portion for certain primordial needs, more especially to meet the expenses of war, which are always of primary importance in barbarous societies.[2]

The Aztecs had not yet domesticated any quadruped except the dog, which they often used for food; therefore

[1] Bancroft, *loc. cit.*

[2] *Ibid.*

their grand resource was agriculture. To this they zealously devoted themselves, and showed an ingenuity which has made famous their kitchen-gardens upon floating rafts. Yet they did not invent the most rudimentary plough, in this sinking to the level of all other native American peoples. It is true that in Mexico there were no beasts of burden, but we have seen that the beings who take their place in savage or barbarous societies, slaves and women, may easily be harnessed to a primitive plough. All agricultural labours were performed by the hands of men amongst the Aztecs, but they did not practise the extensive method of savages. Fields were enclosed, sometimes by aloe hedges, sometimes by dry stone walls; soil was improved by spreading ashes upon it; it was artificially irrigated, and by a systematic rotation of crops regular harvests of maize and manioc were obtained.[1]

But the pastoral phase, once reputed a sociological necessity, was omitted by the Mexicans; therefore, despite their relatively advanced degree of civilisation, there was often a scarcity of meat. The difficulty of procuring it was one of the great anxieties of Cortez during his expedition. This was doubtless the reason why the Mexicans preserved those man-eating and dog-eating habits, so incongruous with their social state. But, having passed beyond the bestial phase of sociologic evolution, they covered their cannibal appetites with the mask of religion. At bottom, they were fond of human flesh, and fattened the prisoners of war destined for their feasts in big cages with strong wooden bars, exactly like the rudest Brazilian savages; but they were careful not to cut them up until a priest had ceremoniously sacrificed them, generally opening their breasts with an obsidian knife, that he might take out the heart and offer it to some divinity. Indeed, it was to assuage the sanguinary thirst of the Mexican gods, and the no less savage appetites of their adorers, that the Aztecs were continually going to war. Frightful hecatombs resulted from the combined action of religious fervour and the want of meat in the Aztec empire. Most years they sacrificed 25,000 human victims, and sometimes went up to 100,000.[2]

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[1] Prescott, *loc. cit.*, Bk. I., ch. v. 64.

[2] Müller, *Geschichte der Americanischen Urreligionen*, 23.

The captive warrior thus took the place of butcher's meat, but he was not an article of commerce, an exchangeable value.

Besides the prisoners of war, there were several servile orders in Mexico, holding different social positions. First came the serfs, attached to the land and changing owners with it, but incapable of being sold separately; then actual slaves of diverse origin. Some were criminals, condemned to slavery for various offences; others were slaves by their own will, men who had voluntarily alienated their freedom; or they might be slaves by the will of their father, for the Mexicans had not renounced the savage right of parents to absolute property in their children. The poor often sold their offspring, and the transmission of the paternal proprietary right was formally and legally accomplished, as in the case of some commodity. A contract of sale was drawn up before witnesses, wherein the sort of service that the buyer might exact was duly specified.[1] He was also at liberty to trade with the goods thus acquired, but he did not generally use this permission without some grave reason. He could, however, legally do so, and great fairs were held at Mexico, especially for this sort of traffic. Slaves were taken to them, dressed in their best, and at their master's order must sing, dance, entice purchasers by displaying all the talents they might possess. A vicious slave must wear a peculiar collar when put on sale, and if he repeated his offence, was abased to the level of a prisoner of war, and sacrificed to the gods. Yet slavery was never very thoroughly organised amongst the Redskins, nor amongst the Mexicans; it was not hereditary, no one was born a slave.[2]

The Mexican slave, therefore, did not constitute an exchangeable value, still less a monetary unit, as in Africa. Almost the whole of the soil, also, was held unsaleable. Movables, property capable of accumulation, consisted only in the produce of industry and agriculture. Thus it was very difficult to grow rich in ancient Mexican society; and yet its members were inclined to trade. Every five days a great fair was held, and not only to facilitate direct exchanges between producers, for there were professional merchants. Indeed the mercantile profession enjoyed special consideration.[1] So great was the activity in commercial transactions that a sort of money had been invented. Nevertheless, landed property was by far the most important.

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[1] Prescott, *loc. cit.*, Bk. I., ch. ii. 18.

[2] *Ibid.*

The Emperors, as we have seen, ceded the enjoyment of the soil in fiefs and tenures; each new monarch must make good his claim as lord-paramount when he came to the throne, by confirming afresh the concessions made by his predecessor; but the possessors of estates were by no means freeholders. The nobles paid quit-rent with their persons, and at need with their goods. The people contributed enormous taxes in kind, being assessed at a third of their income. These imposts were so rigorously collected that a person incapable of otherwise meeting them might be sold for the purpose.[2] Those not in the enjoyment of any land, and they were numerous, for the eldest son was generally the heir, and it was not easy to find land to let, all disinherited folk, and especially those not engaged in trade, the poor, in a word, paid the equivalent of their taxes in forced labour, public works, etc.

Thus in one form or another every Mexican contributed to public undertakings and expenditure, as well as to the stately pomp of his ruler's palace, with its thousands of courtiers and servants, and its harem of three thousand women.[3] But the produce of the taxes in kind, piled up in the royal warehouses, was not all consumed by the Imperial household; the surplus went to widows, orphans, and the sick and aged,[4] a survival of the old communal system.

Manners and institutions very similar to those of the Aztecs, the profuse human sacrifices excepted, reigned in the other states founded by the Nahuatlac Indians, both in the monarchies and in the aristocratic Republic of Tlascala, itself monarchic in principle. In Tlascala the royal prerogative was merely arrogated by the nobles.[5]

From all the facts thus briefly summarised, it seems that Mexican society was a compromise between the communal habits of a primitive tribe and the usages of an absolute monarchy. Political inequality had become enormous; royal and aristocratic privilege had largely developed; but the protest of the ancient communal rights, still preserved beneath the newer social organisation and property system, is distinctly evident.

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[1] Prescott, *loc. cit.*, I., ch. v. 70.

[2] L. Biart, *Les Aztèques*, 141.

[3] Bancroft, *loc. cit.*, ii. 161.

[4] L. Biart, *loc. cit.*, 141.

[5] Bancroft, *loc. cit.*, ii. 229.

A contrast of like nature, but far more striking, is offered by the great monarchy of the Incas.

IV. *Property in Ancient Peru.*

The political organisation of ancient Peru, still more than that of ancient Mexico, was an enlargement of that of the monarchic tribe. At the top of the social edifice the Inca, the omnipotent sovereign, shone in his glory, ruling over an empire a thousand leagues in length, with none above him save his spiritual father, the Sun, upon whom he might not long gaze without impiety, but who cannot practically have been a very irksome superior.[1] The government of Peru was, at least in theory, a gentle, paternal despotism, but quite absolute. The Emperor, in his quality of demi-god, was the supreme chief. He levied and commanded the army, decreed the taxes, presided over the priesthood. The greatest lords might only appear before him bare-foot, carrying some light burden on their shoulders. He was the source of all dignity, all power: literally, he was the state.[2] But the Inca could not be indolent; he must consolidate and spread Peruvian civilisation, and the dozen sovereigns who reigned over Peru did not fail in this duty. Gently, but without shrinking from the use of force when needful, each Inca must extend the frontiers of his empire, that he might propagate at once its religion and its civilisation.[3] For this purpose persuasion was preferred to violence; the conquered were always considerately treated; often colonies were established amongst them. But the grand aim was moral influence. Thus the Inca Pashacutec made peace with the Yuncas on condition that they would renounce human sacrifices and worship the Sun.[4] The Inca Huayna-

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[1] Garcilasso de la Vega, *Hist. des Incas*, i. 334.

[2] W. Prescott, *Conquest of Peru*, i. 10, 11.

[3] G. de la Vega, *passim.*

[4] *Ibid.*, i. 224.

Capac, after attempting to subdue and civilise certain extremely savage Indian tribes, withdrew his troops, saying: "These men are unworthy to obey us."[1]

The Incas, considering themselves all-seeing and all-wise, left no individual initiative to their subjects; they must work and obey. The first institution of this despotism tempered with good intentions is attributed to the Inca Manco-Capac. He, says G. de la Vega, decreed mutual aid and the monogamic marriage of kin by the father's side. He had all the llama wool and the harvests gathered into public storehouses, that they might be distributed amongst individuals according to their needs.[2]

Manco-Capac's successors completed and brought to perfection his system of government, which later served as a model to the Paraguay Jesuits. It is an example of authoritative state communism unique in the history of mankind, at least on so vast a scale and with so absolute a disregard of personal freedom.

The Peruvian people were classed in administrative sections containing 1000 inhabitants, subdivided into smaller sections of 500, 100, 50, and 10, each with its responsible chief. Every large section had some member of the immense family of the Incas as governor.[3] The territory of the empire was divided into three parts: one for the Sun—*i.e.*, public worship and the priesthood; the second for the Inca and his huge family; the third for the people; but of course the people had to till the portions of their superiors as well as their own. The estates of the Sun were first attended to; then those lands consecrated to the maintenance of the sick and aged, of widows, orphans, soldiers on active service, in fine, all who for any reason independent of their own will could not work for themselves. This done, each labourer might think of the field assigned to him, and work for himself, but was also under a general obligation to assist his neighbours. The demesne of the Inca, the ruler holding eminent domain in everything, came last.[4]

An attempt was made to render forced labour for the benefit of the crown attractive by giving it the appearance of a public solemnity. At break of day the whole population, men, women and children, were called together from some eminence or tower, and all came hastening in their festival raiment and most precious ornaments. The crowd set to work, singing in chorus hymns celebrating the mighty deeds of the Incas, and the whole task was performed with joyous enthusiasm.[1]

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[1] G. de la Vega, i. 332.

[2] *Ibid.*, i. 31, 32.

[3] Prescott, *loc. cit.*, ii. 18.

[4] *Ibid.*, ii. 21, 22.

The Inca's estates served to maintain the pomp of the sovereign, to supply the needs of his very numerous kindred, and also those of the government. The revenue of the estates called the Sun's was consecrated to the maintenance of the temples, that of the clergy, and to the sumptuous ceremonies of worship. The rest of the territory under cultivation was divided individually in equal shares amongst the population, by a vast administrative allotment. Marriage also was an administrative act, obligatory and strictly regulated.[2] The district undertook to furnish each newly-married couple with a dwelling and a plot of ground sufficient for their maintenance. Any children who might come were not a burden upon their parents, for each year the allotment was revised, and the share of every family increased or diminished in proportion to the number of its members. For each child an additional lot was allowed to the parents, but it was half as large again for a son as for a daughter. On the contrary, families who had decreased saw the plot originally granted to them proportionately lessened. The same method was followed in the case of functionaries (*curacas*), the only difference being that their plots were larger in proportion to the importance of their office.[3]

Industrial work was done in like manner by administrative requisition, and under the vigilant eye of a paternal government. Manufactures of cotton and woollen stuffs were the main industries of Peru. The latter depended on llama-rearing, and all the flocks were the property of the Sun and the Inca. These flocks were very numerous, and were kept in the colder atmosphere of the highlands. Shepherds, requisitioned of course, moved with the animals from pasture to pasture, according to the season. Each year a great number of llamas were brought to the capital for court consumption, or to be sacrificed at the religious festivals; only the males were used for these purposes.[1] At a prescribed moment the llamas were shorn, and the wool was at first gathered into the public storehouses; afterwards officials distributed to each family as much as their needs demanded. This wool was spun and woven by the women, and finally made into warm garments for mountaineers. In towns cotton, officially furnished by the crown, took the place of llama wool.

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[1] Prescott, *loc. cit.*

[2] Letourneau, *Evolution of Marriage*, 149.

[3] Prescott, *loc. cit.*, ii. 20.

But the people must also manufacture stuffs for the Inca and his kin. Functionaries, whose headquarters were at Cuzco, determined the amount, quality and kind of the stuffs needed. Then the task was divided between the various provinces of the empire. Special officials superintended the distribution of the wool and cotton amongst the families, and saw that the stuffs were properly manufactured. For this purpose they went into the houses, and, if needful, designated the most skilful artisans for the task.[2] The same system of requisition was employed in working the mines, all of them crown property, and for the manufacture of various industrial and artistic products. The demands, or rather commands, always came from Cuzco, the capital, where there were competent commissioners, well informed of the resources of the different provinces, and the character and aptitudes of their inhabitants.[3]

There was never a lack of hands for the work; for except in cases of infirmity, absolute and recognised incapacity, idleness was not tolerated. The crown had early taken measures under this head. The Inca Pashacutec simply gave general orders to hang all lazy persons, and to cause boys and girls to work at some occupation, suited to their age and strength, from six years old and upward. Even the halt and the blind must render small services, and the old men, supported at the cost of the community, were called upon for such easy tasks as scaring birds from newly-sown crops.

By means of *quipus*, statistics of births and deaths were kept accurately to the day. The central power was supplied with information by periodic inspections, and was in a position to distribute the work with knowledge of the circumstances. Specialities were taken into account. Such a district furnished the best miners, such another the most skilful workers in wool or metal. The artisan, whatever his trade, received raw material from the government; but he was not overworked, and only owed a fixed portion of his time to the public service. In every occupation relays of workers succeeded and replaced one another; and any one who was requisitioned for any kind of public work—agriculture, road-making, digging a channel for irrigation, building an edifice for the Inca, or whatever it might be—was supported by the state which employed him as long as the requisition lasted.[1] With their unlimited supply of gratuitous manual labour, the Peruvians succeeded in executing works that astonished their Spanish conquerors. For instance, one stone of a royal palace measured 38 feet long, by 18 wide and 2 thick.[2]

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[1] Prescott, *loc. cit.*, ii. 22. [2] *Ibid.*, ii. 22, 23. [3] *Ibid.*, ii. 23.

A portion of the agricultural and industrial produce was transported to Cuzco, for the needs of the Inca and his court, but the greater part was deposited in provincial storehouses, appropriated to the Sun and the Inca. All deficits in the royal stores must be made up at the expense of those of the Sun; but, on the other hand, any excess in the Inca's reserves was used to supply the needs of the people in bad years, and also to aid individuals struck down by illness or any misfortune.[3] Thus a considerable portion of the resources of the crown returned, in one way or another, to the people who had created them. The political and social organisation of ancient Peru was at once despotic and humane, irksome and well intentioned.

V. *Social Evolution of Mexico and Peru.*

The Mexican and Peruvian empires have a special sociological interest, because we can trace them back to their origin. At the period of the Spanish conquest they were still comparatively young. Their whole development was, as we have seen, contained in germ within the Redskin tribe. This latter first of all became an aristocratic and monarchic tribe, as among the Natchez, and then, as the Indians advanced towards the fertile, healthy plains of Central America, a great barbarous monarchy. But the ancient moral and social foundation was still there; the rulers or conquerors of Mexico and Peru met with it in all the tribes they succeeded in subjugating, and were obliged to reckon with these ancient customs; they might modify but could not succeed in abolishing them. Thus the Mexican districts and corporations, with their registered common domain, manifestly represented the ancient republican clans, forced to accept the domination of monarchic power. In Peru, also, the custom of cruel initiations, usual in so many American tribes, continued in a softened form; even the Inca's family, and the Inca himself before he mounted the throne, must needs submit to it.

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[1] Prescott, *loc. cit.*, ii. 24.

[2] Garcilasso de la Vega, *loc. cit.*, i. 260.

[3] Prescott, *loc. cit.*, ii. 25.

As the Indians upon the Mexican and Peruvian tablelands became more civilised—*i.e.*, made progress in industry, and still more in agriculture, which allowed them to obtain an abundance of provisions, and therefore to multiply and grow rich—their societies differentiated. Division of labour, and also of idleness, was established, and resulted in the institution of close castes and an absolute monarchy. This is a law of sociologic evolution, admitting of scarce an exception. Nevertheless, the ancient system of communism and solidarity was not annihilated. If the privileged classes freed themselves therefrom to a certain extent, the mass of the populace always submitted, and remained faithful to it. We have traced it in the popular clans of the Mexican empire, and still more in Peru. Yet the evolution of the two states was very different. In Mexico, probably on account of successive invasions and immigrations, a sort of feudal system, a compromise between rival pretensions, was superimposed upon the clans. In Peru, conquerors, relatively few in numbers, but better armed than the primitive inhabitants of the country, subjugated them; merely regulating the communal institution of the savage clan for the benefit and under the supreme direction of the Inca family, a kindred which grew and multiplied by means of polygamy, whilst it imposed administrative monogamy upon the enthralled masses.

As this authoritative Peruvian communism realises in its own way, point by point, the so-called Utopian theories of certain European reformers, it may be as well clearly to define its advantages and drawbacks.

VI. *Sociological Import of Peruvian Communism.*

The advantages are huge and obvious. In a society like that of Peru no one is wretched, no one is forsaken. The ruling providence has foreseen and regulated everything. The mere fact of being born in this or that social caste fixes the individual's destiny. If he is a noble, he will be brought up in a sort of college, where he will be prepared for the governmental functions that must necessarily fall to his lot. If he is a plebeian, the state offers him an assured maintenance from the first year of his life, and at the same time imposes some industrial or agricultural handiwork upon him. He is never out of employment or short of victuals. To a moderate extent the state-providence will claim his muscles for work of public utility, providing for his subsistence the while. When these requisitions and enforced labours are accomplished, it will allow him to till a field gratis, the area being increased or diminished according to the number of children he may have. Moreover, he will be officially, administratively married at the age determined by law. In a society thus ordered there will be no question about Malthusianism. Man increases and multiplies wherever economic reasons do not restrain his fecundity. The birth-rate is therefore enormous; wave after wave of human beings rises into existence, and, being soon too closely pent within their native land, they overflow into scantily populated neighbouring countries. Idleness is unknown; it is a crime, and the state does not tolerate it; men must be doing, always in action, co-operating in the common toil. But the omnipotent state is a reasonable being; it proportions the work to the strength of each, and when infirmity or old age overtakes the broken-down or worn-out worker its arms are extended to support him and supply his needs. Its far-sighted prudence has amassed sufficient resources to secure the accomplishment of this great social duty.

These are the advantages, and they are great. Let us now glance at the drawbacks.

All spring from one cause, the radical vice of this type of society, *i.e.*, the abolition of all individual initiative. In their well-intentioned but short-sighted prudence, the founders of the Empire once for all regulated the action of the social machine. They did not admit or consent that things could be done better, or even otherwise. Consequently progress, without being absolutely impossible, was greatly hindered. Usually it is the result of thousands of individual attempts, often unreasonable and unfruitful, but all ceaselessly battering the portals of the unknown, and not seldom forcing them. The human mind has little time for such ventures in a society which continually claims the brightest activity of its members for some pre-determined function. And during the centuries of its communal existence, Peruvian civilisation seems to have remained as if congealed. But it must be noted that it sprang up in an inferior race; that it had to subdue entirely savage tribes; and that, taken all in all, it reached a relatively high degree of development. Without the brutal Spanish Conquest it would surely have evolved, doubtless adopting in the first place the feudal system flourishing in Mexico, where a previous communal phase had probably occurred.

To the Europeans of to-day, at least to the more developed amongst them, a tyrannically benevolent system like that of Peru would certainly seem insufferable. Yet, if we glance around us, we shall soon see that numbers of our contemporaries are enslaved to tasks as compulsory and often more arduous than those of the plebeians of the kingdom of the Incas, whilst they are far less cared for. I reserve general appreciations for the close of this work; here I will merely remark that whilst avoiding any enthusiastic approval of the narrow and rigid communism of Peru, it is well to recognise the tremendous advantage of providing for the primordial want of the community, its need of subsistence. If man is both angel and beast, then that the wings of the angel may be unfolded it is absolutely necessary that the beast shall be secured from the clutches of hunger.

CHAPTER IX.

PROPERTY IN ANCIENT EGYPT AND IN ABYSSINIA.

I. *Property in Ancient Egypt.*—Sociological analogies between Peru and Egypt—They are merely a coincidence—Antiquity of Egyptian civilisation—Omnipotence of the Pharaohs—Distribution of the soil in Egypt—The allotment of Sesostris—Royal right of eminent domain—The labouring classes—Hereditary occupations—Letting of land—Servile and regulated labour—Religious veneration for cattle—Trade restricted and regarded with suspicion—Ease and monotony of existence—High birth-rate—Legal solidarity—Difficulty of growing rich—No unclassed persons—Evolution of property in Egypt—Meaning of animal worship.

II. *Property in Abyssinia.*—The Ethiopians of antiquity—Their monarchic system—The *Table of the Sun*—Feudalism in Abyssinia—The Abyssinian empire—Classification of fiefs—The king proprietor-in-chief—Slavery—Categories of slaves—Marriage by purchase in Abyssinia—Freedom in marriage for men—Loose manners of women—Rights of the father of a family—Courtesans—Emasculation—The legend of Isis—Phallic trophies—Emasculation and the levirate—Family property in Abyssinia—Survivals of ancient clans.

I. *Property in Ancient Egypt.*

So many analogies exist between ancient Peru and ancient Egypt that the kingdom of the Pharaohs has been honoured by the supposition of being the founder of that of the Incas. As it is now impossible to attribute great antiquity to the Peruvian monarchy, this chimerical view can no longer be supported. The rough likeness between the two countries is of merely theoretic importance, as attesting the general if not very rigorous law obtaining in the political and social evolution of human aggregations.

So imperfect is our information that we can only guess at the origin of ancient Egypt. It would seem that the land of the Pharaohs distanced all other countries, and constituted the earliest great barbarous civilisation, but its infancy is hidden in deepest night. To whatever distance we are enabled by legend, history or archæology, to follow the track of past ages, we still find a powerful semi-civilised state on the banks of the Nile, apparently the most successful example of all the great monarchies issuing directly from primitive savagery.

The social structure of Egypt may be compared to the huge pyramids she has raised. At the base of the body politic is a servile mass supporting and nourishing a warrior and priestly caste by enforced labour, whilst at the summit towers a semi-divine personage, lording it over all the rest and "causing his face to shine upon Egypt like the sun." None may stand upright in presence of this potentate, and Egyptian iconography shows us the priests themselves prostrate before his majesty. His death is a public calamity, and, like that of the bull Apis, entails general mourning for seventy days.[1] This monarch's subjects are absolutely at his mercy. The father of Sesostris, or Seoosis, as Diodorus writes it, was able to collect all the male children in the country, born on the same day as his son, and have them brought up so as to compose a faithful army in readiness for his heir.[2] It is a still more significant fact that Amenophis had no difficulty in carrying out so wholesale a selection as that of the 80,000 Egyptians afflicted with bodily infirmities, whom he caused to be thrown into the quarries of Tourah.[3]

In societies of this kind there can be no consideration for individual liberty. The rulers have foreseen and regulated everything ; the subjects are guided, managed and punished exactly like children. The organisation of property, being the predominant interest, is decided from above, and of course with very lukewarm zeal for equity. But certain necessities are forced upon most absolute despots, hence some curious similarities in all barbarous states.

The soil in Egypt, as in Peru, was divided into three portions. The first and largest was appropriated to the College of Priests, and its revenues were absorbed by the costs of the sacrifices and by the needs of the sacerdotal caste and its subordinates. The second division of the soil was royal property; its produce defrayed the expenses of the court and of war. The third and last domain belonged to the warriors, both officers and soldiers. It served, if we may believe Diodorus, to give a solid basis to their patriotism; indeed, he very justly observes, it is absurd to confide the public safety to those who have nothing in the country worth the trouble of fighting for.[1] According to the testimony of Herodotus,[2] each Egyptian warrior possessed a dozen acres of ground in his own right. Moreover, the military and priestly domains were both exempt from taxation.

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[1] Duncker, *Les Égyptiens*, 218, 226.

[2] Diodorus, i. 53.

[3] G. Maspéro, *Histoire ancienne des peuples de l'Orient*, 206.

But, theoretically, the whole of Egypt was no doubt considered as belonging to the monarch, having originally been collectively appropriated, for the priests told Herodotus that Sesostris was the first who allotted the country amongst all the Egyptians, basing his whole fiscal system on this distribution of land. Each allotment, whether granted to an individual or a family, was saddled with a yearly tribute. "But if the river swept away the lot of any one, he could come to him (the king) and make known what had happened. And he (the king) sent out certain persons to enquire and carefully measure how much the plot was the worse, in order that in future he (the owner) might pay in proportion to the established tribute."[3] This arrangement seems to imply the existence of a register kept up to date. Genesis agrees with Herodotus in declaring that the Pharaohs considered themselves proprietors of ancient Egypt, and boldly used their right of eminent domain.[4]

The three main divisions of Egyptian soil were not each consolidated into a single holding, but were distributed throughout the kingdom, every *nome* having king's lands, priests' lands and warriors' lands.[5] This general distribution of real property is very similar to that in Peru, but no portion is reserved for the people, who consequently could not rise to the dignity of land-holders, and had to live by their labour.

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[1] Diodorus, i. 73.

[2] Herodotus, ii. 168.

[3] *Ibid.*, ii. 109.

[4] Genesis, xlvii. 20-26.

[5] Strabo, Bk. xvii.

Besides slaves properly so-called, Egypt counted three orders of labouring citizens: herdsmen, cultivators and artisans, who were grouped into strictly hereditary sub-castes and corporations. Immobility was the rule; change was regarded with horror. Each individual must die where he was born, and keep to the social position and occupation of his parents. The genealogical trees found in Egyptian tombs prove that twenty-five generations of a single family have followed the same profession—*e.g.*, that of architect.[1] The agricultural labourers gained their livelihood by renting the lands of the king, priests or warriors.[2] The nomadic herdsmen were doubtless of Semitic race, and were, it is said, much despised. As for the artisans, they lived by the handicraft imposed upon them by birth and the laws.[3] Liberty was their greatest need, for their work seems to have been servile and under strict regulation. The papyri tell us of weavers[4] who "must bribe the door-keepers with cakes if they would behold the light of day;" who "are bound like the lotus of the marshes, if they fail one single day to manufacture the prescribed amount of cloth;" who are, and what could be more expressive, "more miserable than a woman." They depict a blacksmith, who "stinks more than a fish's egg;" a mason, "whose arms are worn out with work," who can "scarcely use his fingers;" a shoemaker, who "gnaws his leather," and has "the health of a dying fish."[5] Moreover, besides the regular taxes, there were great public works, executed, as in Peru, by requisition and enforced labour—*e.g.*, the digging of canals and tanks, construction of dykes, sluices, etc.

Under such a system the privileged are born rich, but it is difficult for those who do not find wealth in their cradles to acquire it. It is impossible to buy land. The soil is inalienable. In certain districts it was even tilled in common and periodically allotted.[6] Cattle and industrial produce only could be accumulated and exchanged, and this not without the hindrance of serious obstacles. Everything connected with cattle, for instance, was under strict and often religious regulation. As is still the case with certain negro populations, observed by Schweinfurth in the valley of the Upper Nile,[1] the Egyptians used bulls only for food. To kill a cow, or even eat her flesh, was more than a crime, it was anathematised as sacrilege.[2] "Neither will any man or woman amongst them [the Egyptians] kiss a [cow-eating] Greek on the mouth, or use a Greek knife for the spit or cooking pot."[3] It is easy to see the reason of this prohibition, of which more than one example is to be found. It assuredly dates back to the epoch at which the bovine race was introduced into the valley of the Nile. In this fanatically conservative land a once reasonable restriction continued to exist, like everything else, after the motive for it had passed away.

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[1] Lepsius, *Briefe*, 309, 310.—Brugsch, *Histoire d'Égypte*, 259.

[2] Diodorus, i. 74.

[3] *Ibid.*, i. 74.

[4] Maspéro, *Du genre épistolaire*, 50, 52.

[5] *Ibid.*

[6] Mesnil-Marigny, *Histoire de l'économie politique*, i. 223.

Commerce, however, which in so many countries has given birth to individual wealth, still remained to the Egyptians; but it was looked upon askance by the priesthood, who forbade their fellow-countrymen to go to sea, or figure in caravans, and declared the principal beasts of burden, the camel and ass, unclean. Foreign caravans must enter Egypt at given points, and stop at certain places. Foreign ships could only enter the Canopic branch of the Nile, and exchanges might take place only upon the little island of Pharos.[4] To land elsewhere was to risk slavery or death. These prohibitions were not relaxed or removed until the time of Psametik.

Thus it appears certain that the economic inequalities between Egyptians were, for a long period, merely the result of birth, and that they remained a fixed quantity. But with the course of centuries this state of things was modified. Aristotle informs us that in his time Egypt was exporting corn in large quantities, and her export trade was eventually enlarged by dyed stuffs, glass, and pottery.[5] But we are at present concerned with primitive Egypt, such as she was made by her own energies and her own lights, apart from foreign and especially from Hellenic influences.

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[1] *The Heart of Africa*, ii. [2] Herodotus, ii. 18. [3] *Ibid.*, ii. 41.

[4] Mesnil-Marigny, *loc. cit.*, 313, 314.—Duncker, *Les Égyptiens*, 268.

[5] Diodorus, i. 67.—Strabo, Bk. xvi.

In this venerable country, where the greater part of our Western arts and industries took their rise, existence must have been extremely monotonous, and the mental horizon of the narrowest, for no department of life escaped an irksome, minute and inflexible ritual; no, not even the occupations of the supreme ruler, whose days were regulated by automatic etiquette. But living was easy on the whole, and material existence being secured against chance, the growth of population was considerable. Parents were under strict obligation to care for and rear all their children; a duty entailing no serious expense. The children went naked, in African fashion, and were chiefly fed upon wild vegetables; their usual bill of fare was wholly vegetarian, and consisted of roasted or boiled papyrus stalks, and roots of marsh plants. An economical sort of bread was made of the fruit of the lotus (*nymphæa cærulea*) and the *ciborium*, another *nymphæa.*[1] Diodorus estimates the cost of bringing up a young Egyptian, from birth to puberty, at the modest sum of twenty drachmas.[2] Egyptian law favoured equality in this particular, and made no distinctions between children; all were legitimate, even those whose mothers were slaves,[3] and all were entitled to the same care. Seemingly a high birth-rate was the main consideration.

When Egyptian despotism was cruel, it was so wittingly, and in pursuance of some more or less well understood idea of social utility, or even of humanity. It was the antipodes of our excessive individualism. Thus he who did not personally go to the assistance of a man attacked by assassins was liable to capital punishment,[4] and if he were hindered from doing so by circumstances over which he had no control, it was his strict duty to denounce the malefactors, on pain of the rod and a three days' fast.[5]

The rigid and in some sort mummified organisation of Egyptian society was evidently unfavourable to the private monopoly of capital. The law intentionally opposed it; the accumulation of interest upon a debt was not allowed to exceed the double of the capital lent;[6] all debtors who, in the absence of a written agreement, denied their debt upon oath, were held discharged;[1] the goods of a debtor might be seized, but his person never.[2] Each Egyptian had his social pigeon-hole fixed for him once for all by his birth, but at the same time sufficient means of existence were dealt out to him or secured to him in exchange for his labour; consequently little tenderness was shown to unclassed persons. If any one could not annually make clear what were his means of subsistence, he was presumed to be living by some guilty practices, and on this ground alone put to death.[3]

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[1] Diodorus, i. 34, 90.

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*, i. 76.

[5] *Ibid.*

[6] *Ibid.*, i. 79.

We know nothing of prehistoric Egypt, but civilisations are not improvised, and that of Egypt must, like the rest, have been preceded by a long savage period, of which many indications may be discovered. In our museums may be seen utensils and weapons which come to us from the Egyptian stone age. The legends of the country speak of a far-distant epoch when human beings were still cannibals. Osiris weaned them from man-eating by teaching them how to cultivate wheat and barley.[4] The property system must have evolved in the Nile Valley as it did elsewhere. The mere fact that the allotment of Sesostris is noted as an important event is evidence of an anterior period when property was common, and certain districts long kept up the custom of periodic allotment. The existence of the clan system in prehistoric Egypt may also be deduced from the peculiarities of Egyptian zoolatry. Everywhere the tokens of tribes and clans are by preference representations of animals; often the animal figured in the totemic emblem is worshipped; almost always the clan abstain from killing or eating the creature they have adopted as their patron, and hold in much contempt the totemic animal of rival tribes. Each locality in Egypt had its sacred animals. The dwellers in Mendes abstained from goats and sacrificed sheep, those in Thebes abstained from sheep and sacrificed goats.[5] Near Lake Mœris the crocodile was held in religious veneration; at Elephantina, on the contrary, it was an article of food.[6] These seemingly strange customs, so astonishing to Greco-Roman antiquity, become intelligible if they are regarded as mere survivals, vestiges of a vanished social state. Indeed this explanation is adopted by Diodorus himself: "They made for themselves a rallying signal," he says, "of the animals afterwards consecrated."[1]

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[1] Diodorus, i. 79.

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*, i. 14.

[5] Herodotus, ii. 42.—Strabo, xvii.

[6] Herodotus, ii. 69.—Ælian, *De Nat. Animal.*, x. 21-24.—Strabo, xvii.

Again, we know that the maternal family usually arises from the confused kinship of the clan. Uterine affiliation continued in unchanging Egypt down to the times of the Ptolemies, and, placing the Egyptian woman, or at all events lady, in the position of an heiress, secured her many privileges.[2] Under such a system property is usually indivisible, and belongs to the whole family, the heiress only enjoying the usufruct and administration thereof, often under the control of a brother. It is therefore probable that this was the system in ancient Egypt, and that rights of private and more or less independent ownership only applied to movables. These are certainly merely inductions, but they are legitimate, and to some extent supply the place of the missing facts. We shall be better informed when studying the property system in Abyssinia, where certain customs resembling those of ancient Egypt still exist, and even manners and legislation throw some light on those of the empire of the Pharaohs.

II. *Property in Abyssinia.*

Chronologically it is a far cry from ancient Egypt to contemporary Abyssinia; yet it is certain that existing Abyssinians are the descendants of the eastern Ethiopians, spoken of by Herodotus as straight-haired, whilst those of the setting sun, of Lybia, were true negroes, "the most woolly-headed of mortals." Tradition, probability and anthropology alike affirm that the black race, with straight or rather curly hair, now represented by the Nubians and Abyssinians, largely contributed at some remote epoch to the foundation of ancient Egypt. Greek antiquity had a high opinion of these Ethiopians. According to Homer, feasts, prepared by the "blameless Ethiopians," were relished by Zeus and the other deities of Olympus.[1] These legendary Ethiopians were regarded as autochthonous, engendered by the action of the tropical sun upon the damp earth.[2] They were the tallest and handsomest of men.[3] They lived to be more than a hundred; they were the Macrobii, "the long-lived Ethiopians." Many Egyptian customs were of Ethiopian origin. The two Egyptian styles of writing, the demotic and sacred, were in use amongst the Ethiopians.[4] Their social organisation also much resembled that of Egypt. Like the latter, it comprised a sacerdotal caste, and an absolute monarch, sometimes elected by the priests,[5] sometimes chosen for his beauty, wealth or skill in cattle-raising.[6] Evidently the Ethiopian sovereign was adored as a god, for his courtiers considered it their duty to kill themselves at his death, and during his life to inflict upon themselves any infirmities with which he might be smitten.[7] Yet, as is quite in accordance with what we know of barbarous monarchies, Ethiopian kings were sometimes raised to supreme power solely on account of their great wealth.[8] These semi-legendary traditions give us very little information about the ancient property system, but we can supplement their silence with what we know of the matter in ancient Egypt and other barbarian monarchies.

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[1] Diodorus, i. 90.

[2] Letourneau, *Evolution of Marriage*, 176.

The tradition of the *Table of the Sun* in Ethiopia seems to attest the existence of an ancient communal system. "A mead in the vicinity of the city was entirely filled with the cooked flesh of all kinds of four-footed animals, each of the citizens making it his business to bring the meat by night; by day any one who chose might go and feed upon it."[9]

Centuries have gone by; after a prolonged existence ancient Egypt has passed away; conquests, invasions, immigrations have perturbed the valley of the Nile. And yet certain habits, certain practices, still proclaim the old connection between the Egypt of the past and the Abyssinia of to-day. Politically Abyssinia is still a barbarous monarchy, but its organisation is entirely feudal, a sort of copy of our European middle ages. This system is known to be comparatively recent. The kings began by enjoying unlimited authority. They made and unmade laws, gave and took away offices, and disposed of the lives and fortunes of their subjects as they chose. Afterwards their power was restricted, and they have now become feudal monarchs, suzerains bestowing investiture upon great vassals. These often receive magnificent gifts in addition; but only the usufruct of them.[1] On the death of a man thus honoured, his spear, shield, sword, mule, etc., are brought back in solemn procession to his suzerain.[2] Abyssinian fiefs differ widely in importance. The greater are called fiefs by banner, those of medium size fiefs by hydromel. Besides these there are the small, ignoble tenures.[3] All vassals, great and small, with all their households, owe military service to the monarch; the royal army list being composed of the holders of allods, gentle and simple, together with some adventurers and soldiers of fortune.[4] The sovereign is proprietor-in-chief, and can always resume what he has granted. This potentate is extremely rich. Numerous herds of oxen and gangs of slaves till his domains; he deducts a tenth from the output of such mines as he does not own himself;[5] he collects a poll-tax, and receives tribute from vassal princes in the shape of horses, cloth, slaves, etc. In each province of the kingdom an exact register is kept of those possessions which ought to return to the imperial domain on the holder's death, to be re-adjudged by the ruler to other feudatories.[6] In this completely feudalised kingdom the prerogatives of the great are extensive, and the enjoyment by the small of the property conceded to them is very precarious; they are so often despoiled of it that many fields are never tilled at all.[7]

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[1] *Iliad*, i.
[2] Diodorus, iii. 2.
[3] Herodotus, iii. 20.
[4] Diodorus, iii. 3
[5] *Ibid.*, 5.
[6] *Ibid.*, 5, 8.
[7] *Ibid.*, 3.
[8] *Ibid.*, 8.
[9] Herodotus, iii. 18.

Slavery flourishes vigorously amongst the Abyssinians and Gallas, and gives rise to much trading. There are various sorts of slaves. Firstly, those incorporated with the family, "children of the house," who are fairly well treated.[8]

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[1] Combes et Tamisier, *Voyage en Abyssinie*, iv. 21.

[2] *Ibid.*, ii. 344, 345.

[3] D'Abbadie, *Douze ans dans la haute Ethiopie*, i. 367.

[4] *Ibid.*, 373.

[5] *Voyage de l'Amiral Verhoeven* in *Voy. Comp. Indes-Orientales*, vol. vii. 32.

[6] *Lettres édifiantes*, iv. 339.

[7] *Voy. Amiral Verhoeven, loc. cit.*

[8] Combes et Tamisier, *loc. cit.*, iv. 98.

Theoretically, the Abyssinian master has not powers of life and death over his slaves; but, as a matter of fact, he disposes of them as he chooses; for in Abyssinia a murderer has only to fear the retaliation of his victim's kindred, and the slave has no kin.[1] Fathers and mothers never sell their children; but sometimes uncles or distant relatives trade in orphans whom they find burdensome.[2] Slaves who are regarded as merchandise. as simply exchangeable values, come from different sources. Some are captives, seized as booty when a town is pillaged; others are young girls carried off by the marauders who lie in ambush near wells; or, especially amongst the Gallas, they may be children seized and sold by the fiscal authorities, because their father cannot pay his taxes.[3] Finally, the Gondar merchants send caravans into Sennar, which buy and bring back thousands of slaves every year.[4] These are always despatched to Massowah, whence they are exported to Arabia.

The position and manners of women in Abyssinia call for remark. They convey a reminiscence, as it were, of ancient Egypt, and are connected with a curious side of the Abyssinian property system. Marriage in this country is neither civil nor religious; it is purely a private commercial transaction. The bride is never consulted, and is simply bought of her parents, without the intervention of official or priest. Unless she is of high birth she receives no dowry.[5] The husband is the owner of the wife, and can keep, repudiate, and take her back again, as he likes, and he makes full use of his powers. In certain provinces (Wogara, Begemder) conjugal instability is the rule; men and women take and leave each other as they choose, marriage really is free; and yet, as the travellers I am quoting have noted with astonishment, the country is not in confusion, society endures, and there are no forsaken children. Very young boys remain at first with their mother, then their father takes charge of them, or, if they are brave and strong, they enter the service of some great man. Girls are still more willingly cared for by their parents, for they are valuable; if they are pretty, very valuable indeed.[1] In fine, Abyssinian society seems to get on very well amidst a state of things which, according to our European ideas, is confusion itself.

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[1] Combes et Tamisier, *loc. cit.*, iv. 148.

[2] *Ibid.*, iv. 98.

[3] *Ibid.*

[4] *Ibid.*, iv. 92.

[5] *Ibid.*, ii. 106-108; iv. 323.

The specially Egyptian element in all this is the great freedom allowed to Abyssinian women and girls. When a woman marries, she does not lose her personality, and does not take her husband's name; in buying her, he seems to acquire only the usufruct of her person.[2] Abyssinian women cannot inherit, and are sold or lent by their parents, like things, but as manners are free and easy to the last degree, almost as much so as in Polynesia, little attention is paid to the doings of the fair sex. In this matter there is very little Christianity amongst the Abyssinians. A blind priest offered his pretty young daughter to some French travellers as a fee, if they would cure him. A widow of high rank asked for drugs as a remedy for barrenness, declaring in public that "her conscience was clear," for she had already made a number of trials with many men, but all without success.[3] The mother offers her daughter; the brother his sister; kings and queens their hand-maidens or ladies-in-waiting.[4]

The profession of courtesan is highly honoured, and queens and princesses are desirous to see their courts graced by fair adventuresses. Besides courtesans properly so called, Abyssinian women generally traffic in their persons, and as they usually possess nothing else, as they are repeatedly repudiated, as the country is constantly at war, and as the great means of enrichment is armed robbery, it would be difficult for them to do otherwise. Being deprived of all assured property except their own persons, they sell themselves, but cheaper or dearer, as they are or are not in love. "When I love a man," said one, "I only take from him what I absolutely need. But if I am only loved, and consent to sell myself, I take everything; I strip him to the skin."[5] These smart women of business are also intrepid; they go with the men to their ceaseless battles, encourage them by word and example, applaud the brave and flout the cowardly, even amid the thickest of the fight.[6] They behave like men, and are often treated on the same footing. They may ask, and frequently they obtain, the government of a town, or even a province. This indeed is generally the aim of the courtesans who enliven and grace the following of princes.[1] In all this there certainly seems to be a partial survival of the more or less gyneocratic habits of ancient Egypt.

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[1] Combes et Tamisier, *loc. cit.*, ii. 106-108; iv. 323.

[2] *Ibid.*, ii. 106-108.

[3] *Ibid.*, 109.

[4] *Ibid.*, ii. 116.

[5] *Ibid.*, ii. 124.

[6] *Ibid.*

The memory of the Egyptian legend of Isis and Osiris is recalled by the bestial custom of emasculation, so often practised amongst the Abyssinians and Nubians, and by the attitude of the women towards this act of savagery. When Osiris was cut by Typhon into forty pieces, which were scattered by the murderer, the afflicted Isis collected all her husband's fragments but one, which she replaced by a wooden *fac-simile.* The original had been thrown into the river and eaten by certain fish, which were therefore odious to pious Egyptians.[2]

To commemorate this event, Egyptians of both sexes celebrated phallic rites on certain consecrated days. There is often a basis of truth in religious legends, and this one seems to attest the existence amongst the ancient Egyptians of the practice of phallotomy, still flourishing in Abyssinia. To mutilate a dead or wounded foeman upon the field of battle, and carry off part of his body as a trophy is common enough; and as the Redskins scalp and the Dyaks decapitate, so do the Abyssinians practise phallotomy, shamelessly and even ostentatiously. After a victory, warriors return to their homes carrying their virile spoils on the points of their lances, to be afterwards prepared and hung as trophies upon the lintels of their doors. A successful chief will display fifty or sixty, and in the chants they compose to glorify princes, the women never omit to mention these proofs of warlike valour.[3] Abyssinian custom declares any woman a widow whose husband has been thus mutilated on the battle-field, and, as the levirate is in use in Abyssinia, his brother takes his place;[4] for in all barbarous countries procreation is the end and aim of marriage. The women not only do not protest against these habits, they think very little of men who do not practise them. Some French travellers tell us of an Abyssinian soldier who bitterly lamented the contempt in which he was held by his wife for not having as yet brought her such spoils.[1]

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[1] Combes et Tamisier, *loc. cit.*, ii. 116.

[2] Plutarch, *Isis and Osiris.*

[3] *Ibid.*, ii. 323.

[4] D'Abbadie, *loc. cit.*

The king, being lord-paramount, delegates a life-interest in the usufruct of principalities and domains to vassals, in return for certain definite obligations. The great feudatories are in their turn suzerains of inferior vassals, and so on down to the common folk. The whole of this feudal edifice is supported by a form of ownership which we have have not yet had occasion to study, though henceforth we shall often meet with it—*i.e.*, family property. In the ancient Abyssinian empire this property system was strongly organised and greatly respected, and it exists still. The Abyssinian family is patriarchal, the succession passing from father to son, the eldest son, for the right of primogeniture is established.[2] Women are disinherited, for the estate must not be broken up, and it hardly ever goes out of the family. Husbands, however, sometimes settle property upon the girls they buy, as a fixed or customary dowry.[3]

This family property system still remains in its entirety; it is traditional, and fast anchored in custom. Even where a disaster, a murrain or invasion of locusts, ruins families and obliges them to disperse, the members or their children patiently await the opportunity to regain possession of the ancient family estate. When they are fortunate enough to succeed, the old arrangement is at once re-established; for tradition indicates the boundaries of the re-occupied fields and directs the reconstruction of the communal hierarchy.[4]

Side by side with well-constituted families, each possessing an inalienable estate, to which they were strongly attached, there were associations of another sort in ancient Abyssinia. Amongst the Bazas and Baroas, last representatives of the Abyssinian empire, says a traveller, communities are composed of individuals, not of families. The family has no political significance; affiliation seems to be maternal, for the father has no authority over his children, and the uncle is master of the life or death of his sister's offspring.[5]

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[1] Combes et Tamisier, *loc. cit.*, iii. 316.

[2] Verhoeven, *loc. cit.*, vii. 36.

[3] D'Abbadie, *loc. cit.*, 121.

[4] *Ibid.*, 101.

[5] Munzinger, *Ostafrica*, 476, quoted by Giraud-Teulon, *Origin. de la Famille*, 271.

The traveller who gives us this information seems to have been puzzled by the strangeness of habits he did not comprehend, vainly seeking in them the patriarchal family of Europe. These communities where the uncle is master of his nephews, and where family ties, as we understand them, do not exist, are obviously ancient clans, which have managed not to fall to pieces as a kindred, and to remain, as living witnesses of a vanished past, beside families of relatively recent origin; a proof that the evolution of the family and of property has conformed in Abyssinia to the great general law that the communism of the clan precedes the joint-ownership of the family.

There are certainly more points of difference than of likeness between the theocratic monarchy of ancient Egypt and the feudal kingdom of Abyssinia. But one general fact dominates the political and social organisation of both countries, and is again to be found in a still greater degree in ancient Peru; it is the sacrifice of individual rights to the superior authority from which everything emanates. Property —*i.e.*, real property—descends from above; it in no way depends on personal merit.

In Abyssinia it is the monarch who at his good pleasure delegates this or that fraction of his domain to this or that person. In ancient Egypt the principle was the same, but society being more settled, property only changed hands by inheritance, and the sovereign power was mainly occupied with what it conceived to be public utility. We shall find the same dominant anxiety in the Chinese empire, and the countries which have adopted its civilisation, Japan and the Indo-Chinese States.

CHAPTER X.

PROPERTY IN CHINA, JAPAN AND THE INDO-CHINESE STATES.

I. *Real Property.*—Utility of a sociological mission to China—Founders of the Chinese empire—Their clans—Usurpation of chiefs—Allotments—Introduction of private property—Agrarian laws—Inalienable plots—Imperial eminent domain—Feudalism—Family domain—Eminent domain under Mongols—System of irrigation—Present conditions—Metric tax—Resumption of estates—Inalienable estates—Small properties—The family village in China—Its organisation—Mobilisation of property in Southern China—Imperial demesnes—Conceded domains—Domains devoted to public uses—Domains of communities—Attention paid to agricultural production—Metric tax *ad valorem*—Taxes in kind.

II. *Personal Property.*—Slavery in China—Price of a slave—Rights of the father of a family—A slave is outside the law—Chinese workmen—Small industries—Cheapness of living—Low rate of wages—Equivalence of wages—Corporations—Inclination for association.

III. *Property in Japan and the Indo-Chinese States.*—Japanese feudalism—Family property—Rights of primogeniture enjoyed by both sexes—Cambodian despotism—Chinese organisation imitated in Anam—The Anamite canton.

IV. *Sociological Import of Family Property.*—Good and evil effects of family property—Solidarity and lack of initiative—Example of China—Athens and the Middle Kingdom—How a society prospers and multiplies.

I. *Real Property.*

A Frenchman who has long resided in China, and conceived a sincere if perhaps too ardent affection for its civilisation, M. Eugène Simon, author of that interesting book, *La Cité Chinoise*, once made in my presence a very happy suggestion about the Middle Kingdom. "Why is it," he said, "that the European governments, who spend relatively considerable sums for the study of archæology and Greco-Latin antiquity, give no thought to sociological archæology? They have permanent missions, special schools, in Greece and elsewhere, and yet they do not even dream of making a long and minute scrutiny of the institutions of the Chinese empire, the one great primitive civilisation still surviving!" Nothing can be better founded than such a regret. China is the one country which has evolved from prehistoric ages down to our own day without any profound disturbance, any serious rupture between the present and the most distant past. Even if we considerably cut down Chinese legendary chronology, it is certain that this civilisation already possessed its existing characteristics, and was in its full vigour, while our ancestors were still savages. Assuredly its youth was contemporary with the old age of Egypt. Of all the great primitive states that elaborated the earliest civilisations, and were the centres from which savage humanity was broken in and educated; of all those states that created the rudiments of industry, art and science, China alone has survived. The transformations of its property system are therefore specially interesting.

According to Chinese annals, the foundation of the empire was the work of a small group of immigrants, "the black-haired folk," "the folk of a hundred families," who at some fabulously distant date came to take up their abode in China. At first these adventurers were nomadic shepherds, like the Mongols, but eventually they settled down, became agriculturists, and multiplied greatly. B.C. 2205 found them divided into numerous clans, each of which occupied a separate valley and elected its own chiefs. In every valley the arable lands were shared amongst the men, from twenty to sixty years of age, who were able to till them. The sovereign of the whole group of clans was also elected, as were the chiefs of provinces. The community appropriated certain estates to these dignitaries, which permitted them to live according to their rank.[1] As often happens, the shepherds of the Chinese people encroached upon their flock of willing subjects. They confiscated, and transmitted to their own hereditary descendants, estates which they had been allowed to enjoy to indemnify them for their official functions. Thus a sort of feudal system was founded in China. In return for certain dues, the sovereigns granted fiefs to greater vassals, who in their turn had lesser vassals. But the lands farmed by the peasants continued to be allotted amongst families, in proportion to the available hands. One lot in ten, however, was tilled for the benefit of the state.[1] Under the earlier dynasties this arrangement was systematised. In the days of the Hia and Shang, the Emperor was the legal proprietor of all land. Estates were allotted to various families in his name. In the time of the Hia each individual received fifty *mous* to till. A tenth of this area, five *mous*, was enough to discharge the *kung* or imperial tax. A *mou* measured 240 paces in length by 1 in width.[2] In most countries where arable lands are allotted periodically, they are thus broken up into long narrow strips, which greatly facilitate the regular redistributions.

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[1] M. J. Sacharof, "Mémoire de la Mission Ecclésiastique à Pekin," in *Revue Germanique*, 1re année.

Until B.C. 254 the system of common ownership was maintained in its entirety, and it still remains in Corea. The house of Tsin instituted private property, and thenceforth, say the Chinese chroniclers, there were rich men, who began to monopolise land, and farm it out on the metayer system to the dispossessed cultivators. Some retrogressive measures were imperative, and the emperors successively formulated several agrarian laws.[3] They began by decreeing that burial-places could not legally be alienated.[4] In A.D. 9, a usurping emperor, General Wang Mang, claimed for himself the right of eminent domain, leaving only usufruct, *jus utendi*, to private individuals.[5] This dogma once well established, the Son of Heaven, or supreme ruler, was always free to modify the property system at his pleasure, and the emperors did not fail to use this sovereign prerogative. Already under the Shang, though the Hia system was maintained in thinly-peopled districts, in others the *tsou* system was instituted. Each group of eight families received a *tsing—i.e.*, an estate of 630 *mous*, bounded by a ditch, and subdivided into 9 plots, or *kia*, of 70 *mous* each. The central *kia*, or *kung-tien*, was the state field; each of the other *kia* represented the share or lot of one of the eight associated families, who, moreover, were forced by law to cultivate the emperor's field, but paid no other taxes.[1]

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[1] E. de Laveleye, *La Propriété*, 143.

[2] Meyer et Ardant, *La Question Agraire*, 23.

[3] E. de Laveleye, *loc. cit.*, 143.

[4] Meyer et Ardant, *loc. cit.*, 26.

[5] *Ibid.*, 26.

Later, high functionaries, such as provincial governors, freed themselves from imperial authority, and became feudatory princes; hence a series of revolts and revolutions. Finally, in A.D. 230, the Emperor Tsin-Che-Hwang-te mounted the throne, and restored, at least in part, the previous customs. He delivered families from feudal bonds, and also from those of the petty clan or *tsing* of eight families. He sold estates, which had become his property by the rite of *cheou*, to private persons, by his own sovereign authority, and bestowed upon individuals the entirely new right of buying or alienating land.[2] Abuses immediately sprang up in the form of monopolies of the soil, and fifty years later, A.D. 280, the Emperor Woo-te was obliged to retrace the steps that had been taken. He granted a *kia*, 70 *mous*, of arable land to every family, in hereditary usufruct, and declared the dwelling-house and the ancestral resting-place inalienable. Liberal measure was given, and this unexchangeable domain gradually attained an area of 74 acres.[3] For a long while the "dewy fields,"[4] the pastures, were held in joint-ownership, and it was only in 485 that they were distributed individually by an edict of the Emperor Hia-Woo-te. Every man over fifteen years of age received a share of 40 *mous*, which he must farm according to the prescribed rules, and, when he became old, return to the state which had lent it to him.

The Mongols still kept up the imperial principle of eminent domain; in the case of lands already appropriated, they respected the pre-existent arrangements. In 1275 Kublai-Khan distributed uncultivated lands, and the confiscated estates of princes and grandees, amongst men of his own nation; but this distribution did not include powers of alienation.[1]

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[1] Meyer et Ardant, *loc. cit.*, 24.

[2] *Ibid.*, 24.

[3] *Ibid.*, 32.

[4] *Ibid.*, 27.

If the Chinese state resolutely and persistently claimed its right as sovereign proprietor, it also accepted the duties of that position, and to it belongs the honour of establishing that admirable system of irrigation which fertilises the whole empire, and renders possible the systematic cultivation of rice. Six hundred years before our era, the Chow-li assigned a definite width, depth, and direction to the artificial channels of the northern provinces.[2]

From the fourth to the second century before Christ, under the dynasty of the Chow, all agriculture was ceremoniously regulated. Almost all officials were occupied with agriculture. Some presided over irrigation works and periods of irrigation; others over the sowing of various seeds, according to the nature of the ground; others superintended the collection, preparation and application of manures. Lastly, some led agricultural colonies into the less populous districts.[3]

The ancient doctrines of Chinese law with regard to property are still in force. The emperor is theoretically legal owner of the soil of the whole empire.[4] If his taxes are unpaid, the state can evict the occupier of the ground; it confiscates landed property to punish state offences;[5] it resumes forsaken lands, the patrimony of extinct families.[6] It has instituted the metric tax, which forces land-holders to get the utmost possible return from the soil.[7] Moreover, the Chinese Government will not allow ground to remain untilled. In such a case, not only does it resume the field, but punishes the land-holder who is guilty of idleness and negligence, then the head-man of the village, who has kept his eyes shut, and finally the chief of the canton, who has been lacking in vigilance.[8] The worthy employment and equitable division of land is considered an interest of prime importance in China; no speculator would be suffered there

[1] Amyot, *L'art Militaire des Chinois.*

[2] J. de la Gravière, *Voyage en China*, i. 299.

[3] E. Simon, *La Cité Chinoise.*

[4] Huc, *L'Empire Chinois*, i. 96.—Milne, *Vie réelle en Chine*, 269.

[5] Huc, *loc. cit.*

[6] Jamieson, Translation of the Code, *China Review*, vol. viii. 263.

[7] E. Simon, *loc. cit.*

[8] Pauthier, *Chine Moderne*, 238.

to monopolise rural property that he might afterwards sell it at a profit.

The old family allotment partially exists to this day, and in each family domain there is always a sacred inalienable islet. Of the 816 millions of acres constituting the Chinese territory, from 172 to 184 millions are thus withdrawn from circulation; but the extent of this inalienable land is gradually reduced as population becomes denser and culture more intensive; and also as the inclination for private property grows, and land is more and more assimilated to other possessions. Thus the area of the inalienable patrimonial field has come down from seventy-four acres to less than two acres.[1] About ninety million families share the soil of China, and the domain of each is generally much restricted. The average area does not exceed eight acres, and sometimes it falls below two acres. Few estates comprise forty-nine acres. Those of 247 acres are excessively rare. Thus all China is under a system of small proprietorship; the soil is cultivated with a sort of devotion, and forests and other waste lands have almost disappeared.[2]

Chinese legislation declares a limited portion of land inalienable, but the opposition offered to the division of domains by custom, and religious devotion to the family, is still stronger than that of the law. Each family is in truth a little clan, with its own tribunal, archives and civil staff. It is grouped around the tombs of its ancestors, the hall where twice a month they are honoured, and the school and library for the children of the hamlet, the various households forming a little association in which all the kindred are included. This enlarged family is, in a Chinaman's eyes, a social centre, a refuge in distress. To be excluded from it is a terrible misfortune. Thus it is generally arranged that the family domain shall not be broken up. On a man's death his eldest son succeeds him, and the other children obey their brother as they did their father. If division becomes necessary, the estate is parted into as many shares as there are sons, *plus* the inalienable portion. This goes, with his own share, to the eldest, who will transmit it to his direct heir. Even after such a division, the moral bonds of a Chinese family still subsist, and the

[1] E. Simon, *loc. cit.*, 38.

[2] *Ibid.*

brothers continue to carry out agricultural operations in common, and to aid and support each other on all occasions.[1] Chinese households are not separated in European fashion; in fact, the village community may still be traced there. Each group of households composing a village forms a social unit, a civil personality, a clan, whose members are collectively answerable to the tax-collector. In each hamlet, its families find a common mill, buffaloes, and at need hands to aid them in their work.[2] The chief of the village is a sort of head-man, *sian-yo*, elected by universal suffrage. All concerned are electors and eligible for election, and the choice is made quite freely. The mandarins never patronise an official candidate, and do not try to influence votes.[3]

Such is the general condition of landed property in China. Few countries have preserved family ownership to such a degree, though it is and has been spread throughout the world. But even in the Middle Kingdom the system of family proprietorship has been subjected to more than one assault. Frequently, especially in the southern provinces, landowners farm out their ground, instead of utilising it themselves. Sometimes they abrogate their rights as completely as they can, in return for a yearly rent and certain dues when the property changes hands. Consequently, in some districts the sub-division of the soil has been carried to the extreme limit of possibility, as so often occurs in Europe. This tendency to parcel out landed property amongst individuals appears to develop with civilisation as a matter of course. All nations which have ceased to be savage have suffered from it more or less; but the Chinese have resisted with greater obstinacy and success than most others. They have not only preserved their inalienable patrimonial fields, into which it is sacrilege to bring an intruder,[4] but have curbed the prerogatives of landed proprietors by forbidding them to increase the rent originally fixed, and obliging them to indemnify the outgoing tenant by a sum equivalent to the increased value he has put into the soil.[5]

Besides alienable and inalienable estates, there are reserved domains in China, belonging either to the Crown or the provinces. In addition to being lord-paramount of the whole empire, the Emperor has his private demesne, which he lets for a rent payable in kind. The imperial estates are called "the fertile fields."[1] Moreover, there are lands said to be "graciously bestowed by the sovereign." They are situated round Pekin, and were originally granted as pastures to "the eight Manchoo standards" at the time of the foundation of the reigning dynasty.[2] Various other domains are exempt from family or individual appropriation —*e.g.*, "the fields of the military colonies," used for the pay, in money or in kind, of commandants of fortified places;[3] or again, the provincial domains, devoted to objects of public utility, such as "fields of studies," intended for the support of those studying in public institutions, or of needy men-of-letters.[4] Indeed in each province there are dwellings adjoining temples and burial-places where luckless literati are received.[5] We must also mention the "fields of succour," and "common fields" for the maintenance of the communities existing in every province.[6]

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[1] E. Simon, *loc. cit.*, 39 *et passim.*

[2] *Ibid.*, 40.

[3] Huc, *L'Empire Chinois*, i. 96.

[4] Pauthier, *loc. cit.*, 172.

[5] *Ibid.*

Thus the principle of communal property in all concerning the soil is largely represented in China, not only in the history of the country, but also in its legislation and its institutions. The community collectively has still the upper hand of the right of private property. Its main care is to watch over agricultural production, upon which rests all Chinese society, and more especially the whole system of taxation. In 1709, the Emperor Kang-he established a metric tax, proportionate to the quantity of ground possessed, and in general relation to its value, for mountain lands and non-irrigated fields pay a smaller rent to the state.[7] This rural and metric tax is the most important, and almost the only taxation in China. It is very moderate, not more than from 1s. 3d. to 4s. 2d. per two acres, even including the value of the forced labour and payments in kind.[8] The Chinese mind is so conservative and archaic, and the Chinese currency still so primitive, that taxes in the Celestial Empire continue to be paid in kind after the ancient method. Thus a summer contribution, an autumn contribution, a mixed contribution, and a military contribution are raised. The first is discharged in corn and silk cocoons; the second in rice, the third in hay and straw. The military contribution only is paid in money. Even in China money is the sinews of war.[1]

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[1] Pauthier, *loc. cit.*, 172.

[2] *Ibid.*

[3] *Ibid.*, 172.

[4] *Ibid.*, 173.

[5] *Ibid.*, 175.

[6] *Ibid.*, 173.

[7] *Ibid.*, 193.

[8] Simon, *loc. cit.*, 32, 33.

In a society still in many ways so primitive as that of China, still in the stage where the family and agriculture take the foremost place, personal, and more especially industrial property, cannot play the predominant and insolent part which it assumes in our European societies, where the family is reduced to a minimum, and agriculture occupies a secondary position. Yet such property does exist in China, and it is important to notice the form it assumes.

II. *Personal Property.*

At the beginning of this chapter I recalled the fact that Chinese civilisation has evolved without once breaking with even its most distant past. It prides itself upon its attachment to ancestral customs ; and its government, legislation and institutions are bound up with past ages in form and often in substance. In all barbarous monarchies slavery plays an important part ; China has not rid herself of it ; she has not even softened its hardships, at least in her legislation. But, thanks to the beneficent effects of the family and agricultural organisation flourishing amongst the Celestials, their servile population is not numerous. Still, every rich or even well-to-do family thinks it needful to have about twenty slaves, though it is very easy in China to get excellent free servants. Before a slave is bought, he is usually taken on a month's trial, and his price varies greatly in proportion to the hardship of the times. In prosperous periods a slave in good condition can sell himself for from £20 to £24, rather a large sum in China ; but in time of war or famine, poor families overburdened with children get rid of them for a handful of rice ; for the Celestials are still living under the good old system which gave the kindred, and especially the father, rights of property over offspring. Gray saw bands of marauders offering young girls for sale at 16s. a head, and at Canton he saw a man, who had ruined himself at play, give up his two boys for a sum-total of £17.[1]

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[1] Pauthier, *loc. cit.*, 176.

Modern Chinese slavery is legally as rigorous as that of primitive times. It is perpetual and hereditary, except in case of redemption; and even if a slave be able to amass a little hoard of savings, redemption can only be claimed as a right in the second generation. A slave cannot appear in court, and his master has all rights over him, including those of life and death, and, in the case of a female slave, even that of mercenary public prostitution. A slave is outside the law.[2] If he escapes, he is described in placards affixed at the corners of the streets, giving his age, costume, appearance, his master's address, and the reward promised to whoever may bring back the fugitive. Similar placards may be seen on the breasts of public criers or sandwich-men. Out-and-out admirers of Chinese civilisation tell us that the life of slaves is in reality easy enough, for habit goes further than law; and this is very probable. In a country where legislation is systematically immutable, public spirit must gradually distance the code; at the same time we must recognise that the Chinese master may ferociously ill-treat his servile property with impunity, and remain within the law.

The position of the Chinese artisan is far better than that of the slave. It even seems to be to some extent preferable to that of a European workman. Handicrafts are still in the patriarchal stage. Great industries have not yet arisen. The most important foundries, for example, only dispose of a capital of from £2000 to £2400.[3] The working population is nowhere massed together like that of our manufactories. Manners are simple, and a Chinese workman is no less esteemed than a doctor or artist, indeed his wages are the same as theirs. Without any theorising, the socialistic system of equivalence of functions is practised in China.[4] Living is very cheap, and the Chinese are not particular about their food. A bowl or two of rice boiled in water make a meal, and a bowl of rice ready cooked costs about a farthing. A pound of beef costs a penny or three-halfpence. For the tenth of a penny a bowl of tea may be had, and for a penny a bowl of rice or millet wine. A night at an inn costs about a halfpenny. A wadded winter robe can be bought for 6s. to 9s., and for from 7s. to 9s. an overcoat lined with sheepskin. At the theatre the best places are three-halfpence and twopence, and the inferior ones a farthing or two.[1] But the iron law of demand and supply reigns in China as elsewhere, for only countries under the communal system can avoid it. Thus a Chinese workman's wages are regulated by his necessities, and are extremely low. A designer or painter gets 5d. or 6d. a day, without food; in the country, with food, he gets 2½d. or 3d. Agricultural labour commands 1½d. to 2d. a day, and food in addition. A halfpenny more is given for transplanting rice, and a penny for threshing.[2] Nevertheless, the free workman in China is on the whole happier than many of our European wage-slaves. His stock of tools is very simple, and always belongs to himself.[3] His very rudimentary workshop is generally set up in his own home, and is transmitted from father to son unchanged. The potter's wheel, invented in China about B.C. 2697, has undergone no sensible alteration since.[4]

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[1] Ph. Daryl, *Le Monde Chinois*, 51.

[2] *Ibid.*, 52.

[3] E. Simon, *loc. cit.*, 115.

[4] *Ibid.*, 108.

The existing organisation of the working class in the Celestial Empire in many ways resembles our own during the Middle Ages. The clannish spirit, still so lively in China, tends to association, and all the labouring population are organised in corporations or trade guilds. Not a mason, carpenter, weaver, blacksmith, doctor, teacher, or beggar but belongs to some particular corporation and submits to its regulations.[5] This organisation is advantageous to its members; even if they are somewhat restricted by the rules of their association, at least they are not left forsaken and alone. But the corporations are close, forming little castes which aim at monopolising work; and they are intolerant and harsh to those who do not belong to them.[6] During commercial and industrial crises, Chinese workmen, like those of Europe, have recourse to strikes, and either because of their character or of their organisation in craft guilds, they are extremely obstinate, and sometimes die of hunger rather than give in.[1] Perhaps, however, this may be out of revenge, for Chinese law and morals hold individuals responsible for all suicides of which they may have been even the indirect cause.[2]

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[1] E. Simon, *loc. cit.*, 108, 109.

[2] *Ibid.*

[3] Ph. Daryl, *loc. cit.*, 53.

[4] *Ibid.*, 55.

[5] *Ibid.*, 61.

[6] *Ibid.*, 53.

A number of small societies exist in China besides these corporations, some permanent, some temporary. The Chinese associate for amusement, buying, selling, consuming, producing, in fact for everything.[3] Any one who needs money can easily get it by forming a little society with ten other persons. Generally the society is formed for as many years as there are partners; each member engages to pay in a deposit every year, and all in turn may draw the total deposits of one year. The borrower comes first, then each of the others, and the sum-total of the successive deposits is so regulated that in the end each of the partners has drawn out the same sum, and the deposits of each have been smaller in proportion to the distance of his turn for repayment.[4]

III. *Property in Japan and the Indo-Chinese States.*

Social conditions and the form of property in China are very different from ours; but they must have their advantages, as Japan, the Indo-Chinese States and Burmah have, generally speaking, adopted them. Japan, however, which was civilised by China several centuries before our era, has retained the feudal system, a state of things that fits in very well with family property.

About B.C. 667, conquerors of Mongolian race, deeply tinged with Chinese ideas, even if they were not actually Chinese, occupied Japan, and founded a feudal society there. A hierarchy of feudatory princes grew up under a *Mikado*, who granted to his companions estates which conferred nobility upon the possessor and his descendants. The titularies of these fiefs divided them amongst their liegemen, who thus constituted an inferior nobility. These let the soil at their disposal to cultivators.

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[1] Ph. Daryl, *loc. cit.*, 53.

[2] Huc, *loc. cit.*, i. 304, 306.

[3] Ph. Daryl, *loc. cit.*, 61.

[4] E. Simon, *loc. cit.*, 124, 125.

Such is the system which has endured until our own day. The farm-rent is estimated in measures of rice, which form the monetary unit. A hundred measures of rice, or *syô*, are equivalent to about £1. The proprietor takes about $\frac{3}{5}$ of the harvest in rice, corn, vegetables, etc.; but crown farmers are better treated, and pay a rent of about $\frac{2}{5}$.

The fundamental organisation of property is, however, based on the family, as in China. Whatever the form of government, there must always be underneath it some final distribution of productive, food-supplying labour; without this society could not exist. Political changes and commotions often do not reach this primary stratum of all society; sometimes there are storms on the surface, which, like those of ocean, only disturb the superficial layers of an ethnic group. But when, on the contrary, a revolution originates in a deep-seated change in the mode of production and distribution of social resources, it cannot fail to overturn the whole state.

Ancient China has had her feudal age, and doubtless had not left it behind at the time of the Japanese conquest; but she had also, at the same period, the family property which she has preserved to this day. All this political and social organisation was transplanted by the conquerors into the "Empire of the Rising Sun," and but a few years ago might have been found there intact. The intrusion of European ideas may undermine and ruin Japanese feudalism; it will long be powerless against family appropriation. This latter is so far peculiar in Japan that, whilst it rests upon the right of primogeniture, it does not disinherit daughters, as does Chinese custom. In the Japanese constitution of property, the integrity of the family estate is the main point. The first-born, whether son or daughter, must stay in the house where he or she saw light, and manage the property of the family. Custom does not allow of marriage between the eldest son of one house and the eldest daughter of another. Both are under a strict obligation to dwell where they were born, and the house and estate connected therewith must not be absorbed by a strange family. When the holder of a domain marries, no change takes place in the property; the heir's wife or the heiress's husband simply goes to live with his or her partner, and if an heiress is wedded, her husband takes her name, or rather that of her estate.[1] These customs seem strange to us, who are still slavishly attached to Roman Law; but they obtain in various countries, and we shall soon find them again amongst the Basques. They have not the gyneocratic meaning claimed for them; but simply signify that the anxiety to keep the family estate intact and undivided comes before all other considerations.

Other civilisations have arisen from the great and venerable Chinese empire. I will pass in silence over Burmah, where the influences of Aryan India and of the Celestial Empire have met, and formed a hybrid whole. But in the Indo-Chinese States Chinese influence rules without a rival, and has formed all in its own image, with more or less success according to the region. Cambodia has only borrowed Chinese imperfections. The king is an absolute despot in form and in substance. He is actually the grand proprietor of the country; the tillers of the soil are mere tenants, given over without protection to the tender mercies of the mandarins, who make them bear the weight of all the taxes, enforced labour and expenses. Private property is not yet constituted in Cambodia; slavery exists there, as in China, but to a greater extent.[2]

Anam, on the contrary, has renounced slavery, but otherwise has adopted Chinese civilisation wholesale. The Anamite ruler, like his former suzerain the Emperor of China, is theoretically despotic; but as a matter of fact his omnipotence is largely restrained by the mandarins and communal autonomy. Indeed, an Anamite canton, copied from that of China, enjoys an independence which the most audacious reformers would not dare to claim for the communes of France. It manages the communal land, keeps the title-deeds of private properties, makes out its own register, divides amongst its members the land tax, enforced labour for public works and military charges, keeps up the roads, manages the local police, and tries in the first instance civil and criminal cases. The royal judge only decides appeals. In a word, as M. Lanessan, from whom I borrow this information, says, in Anam the individual is protected by the canton against the state, and by the state against the canton.

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[1] Teulon, *Origines du Mariage*, 346.

[2] De Lanessan, "Indo-Chine française," *Revue Scientifique*, 7 Janvier 1888.

In Anam property is organised exactly as in China. Family property is predominant, but is already at odds with private property. It is transmitted by sale or inheritance. Each family estate includes a sacred inalienable portion, which may be called the ancestral domain, for it is appropriated to the burial and worship of forefathers. The whole organisation is so like that of China that it would be superfluous to describe it further.

IV. *Sociological Import of Family Property.*

The sociological import of the family mode of appropriation should be estimated from the twofold standpoint of society and of the individual. Without being peculiar to China, this form of property is better preserved there than elsewhere; it can be studied there without difficulty, and this study throws light upon other civilisations, less known or now extinct, which are or were based upon family property; it enables us to lay our finger upon the good and bad sides of the institution.

Its advantages are considerable. Let us suppose an imaginary country, where the family property system is strictly applied, where every individual belongs to a family possessed of an inalienable estate, sufficient to supply its legitimate needs by moderate work, sufficient also to allow the family to increase for an indefinite time. How many excellent results would follow from this state of things! No one forsaken; no pauperism; no Malthusianism; unavoidable solidarity of all the members of the kindred association in good and bad fortune. Uninterrupted traditions would bind together the successive generations upon this plot of ground, and would result in a collective mental life evolving through the ages; the moral genealogy would be as certain and well known as that of blood. The nation would see its members increase with enormous rapidity, and, however modest its beginnings, it could not fail to form a vast and powerful aggregation in a comparatively short time.

These advantages are not to be disdained; neither are the drawbacks. They are the same as those pointed out in the Javanese *dessa*, which is an association of a similar kind. Doubtless the individual finds a shelter and refuge in the type of family in question, but he is strictly tied to it, he cannot leave the collective unit which depends on his work. He could not in our hypothetic state, for each family would form a close group. Moreover, he must humbly obey the chief or administrator, whoever he be. Any one who leaves the family, or is banished from it, finds himself classless and destitute of resources. Expulsion from the family is a grievous penalty, a sort of excommunication, as is the case even in China, where the family system is not applied in all its rigour. Individual initiative is therefore greatly impeded; the intellectual horizon is extremely narrow; folks vegetate on a bare subsistence from day to day, and general progress cannot be otherwise than excessively slow.

With some modifications in detail this picture is applicable to China. The Middle Kingdom was founded, say the chroniclers, by a hundred—*i.e.*, a few—families. To-day it numbers at least 400 million inhabitants. Up to the Thibetan frontier, 800 leagues from the sea, there are towns of half a million people. All the forests have been cleared; no untilled land is to be seen; even the slopes and tops of the mountains are cultivated; the earth has been made to extend into the water by floating gardens on the lakes. And the swarming population is still on the increase, and still almost entirely occupied with small farming, transplanting rice into a soil made inexhaustible by continual application of manure, and producing from 242 cwt. to 282 cwt. per 247 acres.[1]

The family property system has thus produced an enormous mass of men in China, a third or quarter of the human race. But for thousands of years this human hive has not been able to accomplish any marked progress. It vegetates rather than lives. It has even intentionally congealed into immobility, decreeing all change unlawful, fixing every detail of life and industry once for all by unchanging rules which have the force of law. In this vast society,

[1] E. Simon, *loc. cit.*, i. 5.

which has been mainly occupied with agriculture for thousands of years, a primitive wooden plough is still used.[1] During one century of its glorious existence, Athens, the little capital of Attica, conceived and set afloat more ideas than the populous Chinese empire during its chronological cycles. All peoples formed and created beneath the shelter of family property have renounced it as they reached the superior phases of their evolution. It would therefore be an error to regard this form of appropriation as an ideal, and it is in vain that certain enthusiastic adorers of China would bring us back thereto by sheer persuasion.

Is this as much as to say that there is no useful lesson to be learnt from the example of China? Not at all. We may conclude from it, firstly, that if a society would prosper, it must forsake none of its members; but whilst sheltering them as far as is needful, it must shackle their individual liberty as little as may be, on pain of becoming stationary; secondly, that to augment a nation's birth-rate, two main conditions are necessary and sufficient—*i.e.*, abundant production and equitable distribution of subsistence; so that, to parody the well-known line of Molière, it may be said, "A people have children when they wish to have them." A serious study of China and its organisation cannot too earnestly be recommended to our legislators, statesmen and economists.

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[1] E. Simon, *loc. cit.*, i. 128.

PART II.

CHAPTER XI.

PROPERTY AMONGST THE BERBERS.

I. *What is to be Understood by the Hierarchy of Races.*—Degrees of inferiority are degrees of development—Special interest attached to sociological beginnings of white races—Chronological development confirms ethnographical gradation.

II. *Property amongst the Guanches or Berbers of the Canary Islands.*—Identity of race between the man of Cro-Magnon and the Berbers—Social condition of the Canary Islanders—Their grottoes—Their dwellings.

III. *Property amongst the Tuaregs.*—Tuareg tribes—Tribes in bondage—Negro slaves—Autonomy of the family—Real or immovable estate—Hereditary property—Tuareg woman as landowner—Tuareg marriage—Maternal filiation—Position of the married woman—Survivals of the communal system—Marseillaise of the raid.

IV. *Property amongst the Kabyles or sedentary Berbers.*—Private property in Kabylia—Extreme temperance—Division of property—How it is possible to become a landowner—Rights of the community and of groups—Limitation of private property—All debts sacred—Limitation of the creditor's rights—Great solidarity—Family groups—Mutual aid a right and a duty—Almsgiving—Rights of the poor—Rights of the traveller—*Hubus* lands—Eminent domain of the community.

V. *The Development of Property amongst the Berbers.*—From the clan to individualism—Disturbing influences in the development of the Tuaregs.

I. *What is to be Understood by the Hierarchy of Races.*

The object of the foregoing chapters has been to study the institution of property among the coloured races. A similar inquiry must now be made as to the white races.

I purposely avoid using the common expression—inferior and superior races. No doubt there exist vast differences among human beings. Some border on the animal, whilst others have cut a certain number of steps in the scale of moral, social, and intellectual progress, and it is to be hoped that they are yet a long way from the summit. But it is important to grasp the exact value of this inequality. All races have not the same capacity for development, though all are capable of it, since all organic species are in their nature modifiable. In fact, each of the chief human races has been able to create one or more great civilisations.

Early Egypt, which was the first to develop, in a way setting the example to the rest of mankind, had, as basis, an Ethiopian, *i.e.* negritic population, which later on was crossed with dashes of Berber and Semitic blood. The great states of Central America, barbaric though they were, reflect honour on the American Mongolian. Furthermore, the Mongol race, properly so called, has cradled Chinese civilisation, which, defying the destroying influences of centuries, has formed the vastest and most durable ethnic agglomeration that ever existed, and even nowadays might well, in certain respects, serve as a model to white races. These latter freely bestow upon themselves a patent of superiority, of innate nobility, but the triple testimony of prehistoric archæology, tradition, and history declares that their beginnings have been most humble; that for numberless centuries they wallowed in savagery, from which they freed themselves much more slowly than the empires of the Pharaohs and Celestials. In short, it is worthy of note that the progress of the so-called superior races has been the work of a very small minority, and even to-day their average level in no wise justifies their boundless and often savage conceit. Here again we must lean on the theory of transformism, and consider the actual inequality of the human races as simply marking the steps of an evolution up which all types of the *genus homo* have clambered, or are capable of clambering more or less quickly. The day that our civilised folk of Europe have well grasped this truth they will cease to treat the so-called inferior races with the callous indifference that is habitual to them, for the full-grown man has no right to despise the child.

These general views are confirmed by all ethnographic sociology, and the special inquiry into the subject of property, herein undertaken, will in no wise gainsay them. In the foregoing chapters, the various forms of property whereof they treat have been studied by classifying them as simple or complex, and as belonging to the condition of the anarchic horde or to that of the great barbarian monarchy. But many of the peoples about whom we are concerned have no history; it is therefore questionable whether their various conditions of property are stages emerging one from the other. Even Egypt and China, as instances, are not clearly proven. The early beginnings of the former cannot be conveniently examined, and those of China itself have had as yet but little light thrown on them. What we do know of the history and customs of these two countries strengthens our inductions as to the evolutionary transformations of the institution of property, but still affords us no complete certainty.

The sociological youth (I do not say infancy) of the white races is, in general, better known to us, and if we find in their past the same stages of property which are to-day spread among the various so-called inferior races, our inductions will be confirmed, because chronological evolution will agree with ethnographical gradation; these will throw a light upon each other, and we shall have grounds for believing that we have truly traced back the general development of property, and that we have formulated its law.

This reason alone should suffice to justify us in separating the coloured from the white races in this inquiry concerning the various systems of property. We can, however, bring forward yet another motive. Certain of the white races, notably those of Europe, have pushed their social development further than the coloured races; they give us the opportunity, therefore, of studying the stages of property which the coloured races, in general, have not yet entered on. Consequently the two parts of this study are complementary to one another: the first tells of very ancient forms of property, the second treats specially of the latest forms, that is to say, the forms arrived at most slowly, but which are probably not final; for change is the primordial law of the world, and finality does not exist.

After these few preliminary considerations I may now resume the analytical exposition of facts and describe the past and present of the institution of property among the three great white races, to wit, the Berber, the Semitic, and the Aryan races.

II. *Property amongst the Guanches or Berbers of the Canary Islands.*

Among the many services for which we are beholden to prehistoric archæology, and to anthropology in general, there is one for which especial gratitude is due—that of having connected the existing Berbers with their vanished ancestors, with the man of Cro-Magnon, and with him of Mentone. We know now that, during the neolithic period, men of a like race inhabited the south of France, Spain, and that part of Africa called Barbary; furthermore, that the Tuaregs and Kabyles of to-day descend, at least in part, from this prehistoric race. By a marvellous chance, a specimen of the prehistoric Berbers lasted almost intact up to the end of the fifteenth century, preserving the customs, industry, probably the social condition of the neolithic Berbers; I mean the Guanches of the Canaries, who, long regarded purely as an ethnic curiosity, have become of very special interest, since they should be looked upon as the epigoni of a great neolithic race. Unluckily their Spanish conquerors thought far more of subduing or destroying than of studying them; nevertheless, by comparing the results furnished by archæological research with the information scattered throughout the accounts of Spanish chroniclers, it is possible to arrive at a fair notion of the Guanches or Berbers of the Canaries and their social condition.

In 1341 the Italian, Angiolino del Tegghio,[1] and again in 1402 the Norman, Jean de Béthencourt, came upon the Canary Isles. At that time the Guanches lived under the rule of the monarchic tribe, and were still in full neolithic condition. Each of their tribes submitted to a monarch adored as a divinity. The people prostrated themselves in the way of this potentate, wiped the dust from his feet, which they afterwards devoutly kissed.[1] At his accession several Guanches disputed the glory of sacrificing themselves in his honour. Having dedicated themselves, they jumped off certain heights on to the points of rocks,[2] only too happy to die for the increase of their master's glory. The monarch was, however, assisted by a council of nobles, recruited from among the aristocratic class, but with the approval of the high-priest.[3] The monarchic power was hereditary, from male to male, but sometimes in a collateral line, the eldest brother succeeding in preference to the son.[4] As is usual in similar political organisations, the land, the soil, was the absolute property of the sovereign, who allotted to his subjects temporary rights of usufruct.[5]

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[1] *Les Iles fortunées ou Archipel des Canaries*, i.

The collateral transmission of power implies the existence of maternal filiation, while the *jus primae noctis* granted to chiefs, and the friendly custom of lending a wife as a part of the hospitality shown to a guest, suggest the idea of an organisation in communal clans.[6] An examination of the Guanche dwellings helps to corroborate this supposition. The ancient Canary Islanders were, in fact, troglodytes. They had kept up and somewhat elaborated the usages of the cave men. They lived as much as possible in vast natural grottoes, common in their islands, within which they hollowed out caves with deep and manifold recesses—a sure token that several families lived together in Iroquois fashion. Failing natural caves, the Guanches constructed houses out of rough stones, which were kinds of artificial caves, for they had neither windows nor chimneys, so that the hearth had to be put close to the entrance.[7] The architecture of these Guanche houses also reminds one of the Iroquois "long houses," because they too were carefully divided by partitions into several lateral recesses.[8] Putting these accounts together, it may be concluded that the Berbers of the Canary Isles closely bordered on the primitive state, inasmuch as they kept to the polished stones and the cave, being the while organised in monarchic tribes, analogous to those of the American Natchez, and having retained in a great measure the customs of the communal clan.

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[1] Dr. Verneau, *Mission scientifique dans l'Archipel Canarien*, 200.

[2] *Nichols' Voyage*, quoted by Demeunier, vol. i. 313.

[3] Verneau, *loc. cit.*, 176.

[4] *Ibid.*, 176.

[5] *Ibid.*, 176.

[6] *Ibid.*, 175.

[7] *Ibid.*, 187, 188, 194.

[8] *Ibid.*, 194.

Shut up in their little archipelago, sheltered from invasions, from intermixtures, from innovations arising from other races, the Berbers of the Canary Islands had preserved up to the sixteenth century a social condition, which it is justifiable to call prehistoric. Naturally, it had not been the same for their congeners on the continent. Those of southern Europe were at an early period merged in the surrounding or invading populations, and so lost all national characteristics. As to the Berbers of Africa, they have resisted somewhat better, and although they have adopted Islamism, and have also been subjected to many intermixtures, they still form ethnic groups quite worth the interest of sociologists. We have therefore to describe the condition of property still in force among the two Berber branches in Africa, the Tuaregs of the Sahara and the Kabyles.

III. *Property amongst the Tuaregs.*

The continental Berbers have not, like the Guanches, remained stationary in the first stages of social evolution. History says that they have at various times founded barbarous monarchies, which were upset, first by Roman conquest, then by Arab invasion. They are no longer organised as tribes; some in what might be called hither Africa, in Barbary, to the north of the Sahara, are subject to various foreign rulers. The tribes of the Sahara are almost independent, in some cases settled and agricultural in the oases, otherwise they are nomadic and pastoral. These latter, always more or less given to pillaging, live on the milk and flesh of their camels, sheep, and goats;[1] besides this they levy tribute of dates, etc., from the populations of the oases under their yoke. Several purely nomadic tribes have the monopoly of the business-traffic across the desert.[2]

[1] Duveyrier, *Touâreg du Nord*, 220.

[2] *Ibid.*, 102.

Lastly, beyond the Sahara, on the southern shores of this sea of sand, from the longitude of Tripoli to that of Timbuctu, the Tuaregs lead a sedentary and agricultural life.

Without exception, all the Tuaregs have retained the customs and institutions peculiar to their race much more than the Kabyles of Barbary. Special interest is therefore to be found in the separate study of them. They are generally organised in monarchic tribes comprising slaves, serfs, and nobles governed by a chief. The mode of transmitting the powers of a chief still betokens an ancient feminine affiliation; as, in fact, not the son of the defunct succeeds him, but his nephew, the eldest son of his sister.[1] The Berber tribes are grouped in confederations, and there are tribes of serfs and tribes of nobles.[2] The latter only have political rights, but they are not admitted into their councils before the age of forty. The Tuaregs, moreover, enjoy an extreme longevity, which reminds one of that attributed to the Ethiopian Macrobii by Herodotus. Instances are quoted among them of people having reached the age of one hundred and thirty and even one hundred and fifty years.[3]

Legally, the Tuareg serfs are at the mercy of their masters, who might therefore take from them everything that they possess;[4] but usually the owners take care not to kill the goose with the golden eggs. They let the slaves grow rich peaceably in the oases they cultivate, and are content to come at harvest-time, receive their tithes, and go off on their camels again.[5] The Tuareg serfs, or *imrhâd*, may transmit themselves by bequest or gift, but they do not sell themselves like the black slaves.[6] The Tuareg serf has no right to carry either spear or long sword, the attributes of a free man. A wooden spear and a dagger are enough for him;[7] he must dress simply, and usually in leather.[8]

The negro slave holds a position among the Tuaregs very much beneath that of the serf. Generally he and his wife are the domestic servants.[9] It is owing to these black auxiliaries that the Tuareg ladies are able to lead the free and intellectual life which Duveyrier describes for us. The Tuaregs are usually gentle masters towards their slaves; yet, south of the Sahara, in the valley of Anderas, Barth saw a rude plough, to which, after the manner of the ancient Egyptians, were harnessed three slaves, whom their master urged to work exactly as if they were oxen.[1]

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[1] Duveyrier, *loc. cit.*, 265.
[2] *Ibid.*, 329.
[3] *Ibid.*, 428.
[4] *Ibid.*, 334, 335.
[5] *Ibid.*
[6] *Ibid.*, 336.
[7] Barth, *Voyage en Afrique*, i. 138; iv. 113, 114.
[8] *Ibid.*, iv. 165.
[9] Duveyrier, *loc. cit.*, 339.

In the Tuareg tribe the family possesses a great deal of self-government. Its head rules it precisely as the chief rules the tribe. He can order its members to be put in irons, to be bastinadoed, and he pronounces sentence in the case of an illegitimate pregnancy, etc.[2]

Landed estates are seldom sold among the Tuaregs, but personal property exists in various forms—to wit, the customary dues levied upon caravans and travellers, protection tributes paid by subjects (*ra'aya*), claims upon the persons and goods of serfs, and water dues. At Wargla there are landowners and *khammas* (small farmers) who are content with one-fifth of the produce from the gardens they cultivate.[3] Two kinds of property are marked out, which are transmissible by heritage: goods styled *lawful*, namely, money, arms, slaves, flocks, crops, bread stuffs, and all that is acquired by individual labour; on the other hand there are the *unlawful* goods, the fruits of wrong-doing, taken sword in hand and by the combined force of all the members of the family. These latter, the unlawful goods, are inalienable, and go by right of seniority to the eldest son of the eldest sister.[4] The others are shared equally, on the death of the head of a family, between all the children without distinction of sex, and this holds good among the slaves, as well as among the serfs and Marabuts.[5]

The important part played by the very early Berbers in the foundation of the kingdom of the Pharaohs has been referred to already several times. Perhaps to the influence of these Berbers should be attributed the relatively favourable position of woman in ancient Egypt. I have elsewhere[6] spoken in detail of the considerable rights and liberties still enjoyed by the Tuareg women, the free women, the ladies. I must, therefore, limit myself to briefly summing up the information we have on this subject. First, as I have said, the Tuareg woman has equal rights of inheriting with the male, a fact quite abnormal in barbarian civilisation. It follows that she has a personal fortune; further, she manages it herself, and, moreover, she is not bound to meet any of the family expenses. It is only of her own free will that she contributes to the cost of the household, so she can grow rich, therefore, on accumulated produce and rents. At Ghat, for instance, the greater part of the property is in the hands of women.[1] The marriage of the Tuareg woman is by no means a sale; she chooses for herself when a young girl, her father interfering only to prevent a misalliance. Certain women even attain a high political position. For instance, the Marabuts of El-Gettar had as their *shêkha* a woman, said to be very beautiful. In spite of the Koran, the Tuareg women have been able to thrust monogamy on their husbands, and they would ask for a divorce at once if given either one or more rivals.[2] All travellers have been struck by the free-and-easy behaviour of the Tuareg ladies. They are at liberty to go whither they will, have admirers and attendant swains, and give musical evenings to their friends.[3] They are learned too: it is they who have preserved and still teach the ancient Berber writing, the *tefinagh;* they more often know how to read and write than the men.[4] When they pay visits, the pipe continually passes from their mouths to the men's, and *vice versâ.*[5] Their social position is, therefore, as different as possible from the extreme subjection to which the Guanche woman must needs resign herself. We may add that filiation is still maternal among the Tuaregs. "It is the womb," say they, "which tints the child;" and the child, in fact, follows its mother's family, so much so that the son of a slave or a serf by a woman of rank is noble like his mother.[6] In certain agricultural tribes of the Berber race, the Asbenara for example, the woman on marrying does not leave her village; it is the husband who must

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[1] Barth, *loc. cit.*, i. 220.

[2] Duveyrier, *loc. cit.*, 427, 428.

[3] *Ibid.*, 289, 396.

[4] *Ibid.*, 396, 397.

[5] *Ibid.*, 397.—*Evolution of Marriage*, etc.

[6] *Evolution of Marriage*, 223, 224.

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[1] Duveyrier, *loc. cit.*, 339.

[2] *Ibid.*, 429.

[3] *Ibid.*, 345, 347, 429.

[4] *Ibid.*, 387, 388.

[5] Barth, *loc. cit.*, iv. 146.

[6] Duveyrier, *loc. cit.*, 337.

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come and settle near her, just as it is in Japan and among the Basques.[1] Contrary to Muhammadan customs, the Tuareg woman eats with her husband, and he, besides being bound to supply the needs of his better half, gives up to her the choicest morsels.

These are remarkable customs, and they are extremely ancient, since the writers of antiquity describe, as existing in their time, similar characteristics among the Berber people. However, care must be taken not to exaggerate the import of them, as has been sometimes done. Although relatively free and privileged, the Berber woman is none the less subject to her spouse, and her adultery may be punished by the husband with death,[2] without the family of the guilty woman having the right to demand afterwards any reparation whatever.[3]

The condition of communal property must have vanished long since from among the Tuaregs, for scarce any trace of it is to be found. Nevertheless, in one tribe, that of Tin-Alkoun, dwelling west of Murzuk, and almost exclusively occupied in the transport of merchandise, a close solidarity still prevails. The three or four hundred families composing this nomadic tribe act as one, and are, to use their own expression, "like the flour, which, passing through many holes in the sieve, falls into the same bowl."[4] Throughout Burnu the wells are personal property of a precious kind, and the traveller can gain access to them only by paying toll; but among the Tuareg tribes the traveller is allowed to water his horse before the natives their cattle;[5] and when a rapacious water-seller takes advantage of a stranger's inexperience to extort from him on this account too many *kurdis*, the wife of the extortioner loads him with abuse and repays the traveller what has been extorted.[6] On the whole, however, the Tuaregs have reached the condition of family, and at the same time private, property. Concerning *thine* and *mine* they hold ideas and sentiments of strict morality, but only between themselves. A Tuareg, were he destitute, would touch neither money nor goods that had been entrusted to him.[1] When a Tuareg dies whilst travelling, his companions manage his affairs as best they can, and on their return give an exact account of their transactions to the heirs.[2] Household theft and breach of trust are not to be met with among the Tuaregs.[3] If a camel happen to die in caravan, the bales and provisions, which have to be left by the wayside, remain even for a year untouched. So much for the property of a traveller, to whom protection is due, and it goes further still when the property belongs to a companion with whom there is common interest. It is quite another matter when any others are concerned; for them unscrupulous robbery with violence is the rule. Brigandage is much in vogue in the desert, and is greatly to the taste of the Tuaregs. It seems, however, that conscience pricks them slightly, because the flesh of a beast that has been stolen must not be served up at a *dhîfa*, or hospitable meal.

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[1] Barth, *loc. cit.*, i. 204.

[2] Duveyrier, *loc. cit.*, 430.

[3] *Ibid.*, 429.

[4] Barth, *loc. cit.*, i. 102.

[5] *Ibid.*, iii. 192.

[6] *Ibid.*, ii. 86.

This restriction is not a heavy one, and raids, especially against certain rival Arab tribes, are looked upon as glorious deeds. In proof of this, here is the text of a kind of Marseillaise addressed to the Sha'amba Arabs;[4] it is racy, and deserves quotation, as showing us pretty correctly Tuareg morality in regard to the property of strangers:—

> "God curse thy mother, Ma'talla, for the devil within thee dwells!
> Dost deem this race, the Tuareg race, are cowards in fight?
> Yet well they know to traverse the waste and quit them in war.
> Betimes in the morning they rise, and on they scour till dark;
> All's quiet, the man sleeps fast, they catch him asleep in bed;
> The better if he be rich and sleep with his flocks around.
> His flocks are round him, and proudly his tent is stretched above,
> The ground is covered with carpets and fleece of downy wool,
> His belly is full of corn and flesh made ready for him,
> Butter thereto is added, and milk from the camel warm.
> In vain he shrieks for mercy, till his soul flies out to the night.
> We strip him of all his goods, not a drop of water is left;
> And his wife, who cried 'Ha, ha!' in joy at the supper spread,
> Like a mare who sniffs her barley, is full to her lips with woe."

This little barbaric song is what is nowadays called "a human document." Love of plundering the property of others shows forth in it with savage frankness, but by

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[1] Duveyrier, *loc. cit.*, 385.
[2] *Ibid.*, 385.
[3] *Ibid.*, 259.
[4] *Ibid.*, 451.

"others" individuals alien to the little group to which the singer belongs are meant.

The foregoing shows that, whether spontaneously by force of circumstances only, or in consequence of the contact with conquerors of diverse races who have occupied Northern Africa, the Tuaregs have attained the state of private property without any distinction of sex. As for alienable landed property, which often remains undivided, the partner, the co-heir, the next of kin, etc., have always the right of *shuf'ah*, pre-emption, which may be looked upon as a voucher and a claim for family rights, weakened but still existing.

IV. *Property amongst the Kabyles or sedentary Berbers.*

The Tuaregs are still semi-nomadic, and they leave to their serfs, or rather put upon them, all the agricultural labour. Their Kabyle kinsmen, who are still so numerous between Morocco and Tripoli, especially in the very hilly regions, have altogether given up wandering. They are industrious husbandmen, whose villages crown the summits of the districts they occupy. From the very fact of their fixed habits, they have, even more so than the nomads of the Sahara, yielded to the influence of, first, their Roman conquerors, and afterwards of the Arabs. Consequently their social development is far from having been spontaneous; thus, in their customs as in their legislation, foreign influences always jostle, and often override, natural inclinations. The condition of property in Kabylia is, however, marked by many features that give it a stamp of originality.

In a general way private property is established in Kabylia, and the right of property agrees, in principle, with the Roman usage: *jus utendi et abutendi.*[1] Landed property comprises above and below, soil and sub-soil.[2] The Kabyles have usually a great dislike to joint-tenancy. Their fields are well marked out, often enclosed with hedges. Every proprietor can compel his neighbour to fence in the adjoining properties, and this work is done jointly.[3] The title-deeds are in proper form, and very detailed; not only is the number of the trees in each field mentioned, but even the different species.[1] Sometimes they go even further than that; a branch of an olive tree may have a special owner.[2] It is quite usual for the trees, especially olive trees, to form a property separate from the soil. This property in tree culture reminds one of the estate occupied by the tenant at will of the Bretons, and may have a similar origin.[3] In short, property is well distributed among the Kabyles, and there are no large fortunes. They are a temperate race, their diet being chiefly vegetarian. The mass of the people live on little; a handful of *cous-cous*[4] made with barley-flour or sago, a little bread, and a few figs is the every-day fare of most of the Kabyles. In many tribes they are often content with sweet acorns, seasoned with rancid oil.[5] The fortune of the richest Kabyle families does not exceed a capital of twenty to thirty thousand francs, of which the income has to supply the needs of about forty persons. "In our country," to quote a Kabyle, "the rich folk are those who twice a week can eat *cous-cous* made with wheaten flour."[6]

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 314.

[2] *Ibid.*, 230.

[3] *Ibid.*, 254.

Kabyle property is acquired in various ways, and it is in many cases a premium offered to work. In some villages, to which are attached extensive commons, whoever clears a part of these lands, or, better still, any uncultivated ground, becomes, by this act alone, its owner.[7] Generally the rights of property through occupation can be exercised over things said to be "free," "vacant."[8] One can become an owner by "vivifying" a "dead" property, and a piece of land is said to be "dead" when it has remained for a long time uncultivated, when it has belonged to a Muhammadan at the time unknown, and is besides so far away from dwellings that the human voice cannot make itself heard. Any one tilling a field under these conditions "revivifies" it, and becomes, by this act alone, its owner. This revival may be done in various ways; whether by digging a well for purposes of irrigation, or by draining the soil, or by making a plantation, or by making a clearing, etc.[1] It is not always necessary to "vivify" to become an owner. Thus, if any one resident in the country, and aware of his claims, permitted a third person to dispose by sale or gift of his property without protesting within a short time, he is not allowed to reclaim it afterwards.[2] The simple and peaceable possession of an estate for six uninterrupted years, without opposition on the part of the owner then residing in the country, in itself constitutes a legal title in favour of the occupier, and the prior owner is then obliged to give proof positive of his claim.[3] From the same standpoint, whoever erects a building on common land without permission, but without any one's having remarked about it to him before its completion, becomes, on that account, the legitimate owner of the building and the ground.[4] The village did not keep its property, therefore it is not robbed. Whoever finds anything must make known his windfall under pain of being looked upon as a thief, condemned to make restitution, and fined to the profit of the *jamâ'ah;* but if this brings forth no claim for it, the object found becomes at the end of a certain time the property of the holder.[5]

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[1] E. de Laveleye, *De la Propriété*, 97.

[2] E. Sabatier, "Essai sur l'origine, etc., des Berbères sédentaires," *Revue d'Anthropologie*, July 1882.

[3] Hanoteau et Letourneux, *loc. cit.*, ii. 230.

[4] An Arabian dish: small balls of minced meat and flour fried in oil.

[5] Hanoteau et Letourneux, *loc. cit.*, ii. 53.

[6] *Ibid.*, ii. 53.

[7] *Ibid.*, ii. 265.

[8] *Ibid.*, ii. 263.

All these regulations of the rights of private property bear the stamp of common sense. They furthermore witness to a certain bias superior to individual interest, a tendency to dam up the ever-invading wave of private ownership; but concern for the community, and even for the maintenance of an ancient right of communal property, shows itself in many other practices and customs. First of all the sale of landed property is always subservient to the right of *shuf'ah*, or pre-emption, which has already been discussed, and may extend not only to the relatives and partners, but also to the people of the *kharûbah*, the inhabitants of the village, finally to all members of the community.[6] Furthermore, and this restriction is in another way a great one indeed, from the point of view of individual liberty, any one who is seriously ill can only sell a third of his goods, and he is prohibited from buying an article of which the value exceeds the third part of his wealth.[1] As a general rule, private individuals can only dispose of their wealth in compliance with custom, and with *kanûns* (canons) touching the public taking over of property, foreigners, claims of *shuf'ah*, etc.[2] The payment of a debt is a social duty, the non-fulfilment of which entails a penalty. If need be, the *jamâ'ah* compels the debtor to pay off his debt, or imposes on him a fine. It requires that all its members who have been in foreign countries should have settled with their creditors, whether Arab or French. Certain tribes go so far as to punish the debtor who even in jest declares that he will not pay up.[3]

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[1] Hanoteau et Letourneux, *loc. cit.*, 263.

[2] *Ibid.*, ii. 546.

[3] *Ibid.*, ii. 267, 268.

[4] *Ibid.*, ii. 232.

[5] *Ibid.*, 267, 268.

[6] *Ibid.*, ii. 402.

But, on the other hand, the rights of the creditor are limited. He cannot claim his debt at night, nor in the country, nor in the debtor's house, if the latter's wife be present, nor on the day when the *jamâ'ah* assembles, nor during a festival, nor while a task of public utility is in progress. The sacred law of hospitality likewise shields the stranger from all claims for debt contracted outside the village.[4] The spirit of solidarity is in general very keen throughout Kabylia, and the owner of land has no cruel rights. Whoever builds or repairs a house can get the necessary timber conveyed across his neighbour's lands without indemnity. The transport of mill-stones gives rise to a like compulsory service, but from the spot where they were quarried.[5] One must be always ready to help his neighbour, if he have need of an arm for no matter what kind of work, and ask for it. It is in fact by the help of such claims on benevolence that the poor Kabyle builds his house, gathers in his olives, etc.[6] As circumstances may prompt they get up communal banquets (*thimesheret'*), whereat portions are set apart for the child about to be born, the absent friend, the traveller, even for the dead, if the occasion is a funeral. These *thimesheret'* are held for a birth, a circumcision, a marriage, and before the public prayer that is to stay a plague, whether among men or animals, etc. Part of the fines, donations, communal bequests, mill-rents, etc., the surplus of the village revenues, are used for these festivals, in which all share.[1]

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[1] Hanoteau et Letourneux, *loc. cit.*, ii. 384.

[2] *Ibid.*, ii. 227.

[3] *Ibid.*, ii. 355, 356.

[4] *Ibid.*, ii. 388.

[5] *Ibid.*, ii. 256.

[6] *Ibid.*, ii. 499

The group, especially the family group, is the soul of Kabyle life. Isolated labour is permitted, but it is not approved. The family group *thadûkelí* is of great antiquity. It is a society of which all the members have their goods and labour in common. Each one is furnished by the community with implements, tools, the capital needful for trading or a craft, and lastly a gun. All the wages and profits of the members of the group are placed in the hands of the head of the family. Estates that can be inherited remain private property as to the ground, but the usufruct belongs to the family. The money goes to the community, unless very large sums are in question. The members possess as private property only their clothes; the women, the wearing apparel and jewels that they received the day of their marriage. Their garments and trinkets are bought at public expense, and are common property. The funds of the group are enjoyed in common. Each woman is in turn charged with the preparation of the food. If the members are too numerous, provisions are shared out, the babe at the breast even being reckoned as a head. The eldest woman is given the management of the household if she is fit to do it well.[2] Should the head of the family be incapable, or fail in his duties, his family deposes him, and puts another in his place. The community pays the *thâmanth*, the price of the woman, when one of its members marries; in return, she collects the price of the girls of the family when it is their time to marry. A fact worthy of note is, that many women are hostile to these joint family associations; they pester their husbands to leave them. "It is the voice from the pillow that sunders families," as the saying is. In fact, on the death of a member his heirs can leave the family, and, in that case, the community makes an estimate of their share and refunds it to them; but almost always the father, when dying, advises his children not to separate.[3] This curious form of the joint family, kept up in Kabylia, despite laws allowing the patrimony to be divided, for a long while was unknown to us. It was only as the result of close research that it was found out. It is therefore quite possible that joint families of a similar kind exist still, unknown to us, in more than one country not sufficiently studied.

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[1] Hanoteau et Letourneux, *loc. cit.*, ii. 52, 54.

[2] *Ibid.*, ii. 469.

[3] *Ibid.*, ii. 472, 473.

It was in these family groups, which must have been formerly more general and more lasting, that the Kabyles were able to develop their remarkable spirit of solidarity. Beyond the narrow little societies, made up of families, every Kabyle in fact could fairly count on the help, not only of the people of his village and of his tribe, but of all kindred folk. Does he wish to erect any kind of building? He can claim the help of the village according to fixed rules. He indeed is left to look after the masonry and the purchase and transport of the lighter materials, but the village has to furnish him with labourers to work under the masons, to cart the timber for him, and, if need be, the mill-stones. The *amîn*, mayor, calls together the workmen, and sometimes decides the order of this forced labour. In this case all the able-bodied men are requisitioned. Besides that, the greater part of the field-work, tillage, harvesting, hay-making, gathering in the figs and olives, is done by mutual aid, voluntarily, each family putting itself in turn at the service of the families which had already given their help.[1]

Besides these well-defined mutual services, a general solidarity is enforced. Whoever deserts a wounded man upon the field of battle draws down upon himself not only public contempt, but also fine and exile. When from home it is incumbent upon them, in case of illness, peril, or difficulty, to succour every man of their own village, and even of their tribe, under pain of fine, paying compensation for the losses that they had not prevented, not to mention the general disfavour.[2] Even if it happens that the victim of a desertion belongs to another tribe, the village or the tribe of the forsaken man carries a complaint before the *jamâ'ah* of the culprit, who is always reprimanded, often punished.[3] Each family is eager for the honour of supplying the wants of aged or infirm members; thus beggars are scarce. There are some, however, but they are not forsaken. Poverty, in Kabylia, is looked upon as an accident, which might happen any one; it occasions neither contempt nor shame. The needy are never repulsed at meal-time; every well-to-do family has several poor hangers-on. Every family event, whether happy or sad, is a time either for almsgiving, or for a meal whereat the needy find room. The greater number of the well-to-do folk levy a substantial tithe upon their rents for the unfortunate, and the orphans of a tender age are taken in by the relatively rich families. Many places have gardens of fig-trees intended for the poor exclusively. A rich man seldom dies without dedicating some fig or olive trees to this charitable purpose. Finally, the poor may enter the orchards in autumn, and eat of the fruits as much as they like, provided only that they do not carry any away with them. They also take part in the village festivals (*thimesheret'*), the religious distributions, etc.[1] Furthermore, communal lands, and those belonging to the mosque, are leased at a low price to families that have had ill-luck, and these have, like the other inhabitants of the village, a right to gratuitous help in their work. Recourse is had to a special tax if there is need for it; for the community is never careless of the fate of its unlucky members.[2]

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[1] Hanoteau et Letourneux, *loc. cit.*, ii. 59, 60.

[2] *Ibid.*, ii. 59.

[3] *Ibid.*, ii. 59.

The spirit of solidarity goes further still among the Kabyles; it is practised even for the benefit of strangers. The poor strangers in a village are housed in the mosque, or by the *jamâ'ah*, under the protection of the village that takes them in. Whether a stranger or not, a beggar, be he blind, infirm, or ill, is made welcome; and every day two children, appointed by the *Amîn*, go from house to house making a collection for him.[3] The traveller is protected by tutelary customs. If, in consequence of weariness or illness, he cannot proceed upon his way, his companion or the passers-by must provide him with a mule, for nothing, if the distance to go is short. Every traveller, provided he do not injure the harvests, has a right to cut grass wherewith to feed his beasts for four-and-twenty hours; he has also a right to water them. What if he should stop in a place without resources? The nearest neighbours are bound to give him water, fire and wood, if it be summer-time, and shelter if it be winter.[1] Near the dangerous passes of the mountains the tribes construct solid buildings, wherein travellers may find shelter and stores of wood. During storms the men of the villages close to the upper passes go in search of lost travellers.

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 55, 56, 57.

[2] *Ibid.*, ii. 57.

[3] *Ibid.*, ii. 57.

It follows from what has been said previously as to the subject of family property, that in relation to the general law of property Kabyle customs are in a transitional stage, and that there is among them a kind of battle between collectivism and individualism. Private property is already established in Kabylia, but the spirit of communism still prevails in its customs, and extends sometimes to the prompting of humane measures. Moreover, there still exist several kinds of collective property. The land belongs at times to individuals, at others to families living in harmony, or again to communes, to villages, or to such and such a division of the village, and occasionally to mosques, etc.[2] In the last-named case the estates are said to be *Hubus;* they are inalienable, except for purposes of public utility, and even then their value must be replaced under the same conditions.[3]

The Kabyle villages themselves manage their communal estates, and the *jamâ'ah* accepts legacies very readily, even when they exceed the portion which may be disposed of.[4] Such legacies are frequent, even customary, because these testamentary generosities may take the place of the succession duty which the *jamâ'ah* levies on an inheritance.[5] In several ways the village asserts its right of eminent domain: thus the *jamâ'ah* takes possession of private estates by force if need be, if the owner has refused two successive offers. Among the *Shirfa* the land necessary for the laying out of roads is taken without indemnity, only the value of the plantations which might have been destroyed being paid for.[6] If there is to be a *thimesheret'*, the *jamâ'ah*, by paying for them, can compel the owners of cattle to give up the animals needed.[7] If a family, during the interval between two market times, wishes to slaughter an animal, notice must be given to the *amîn*, and then the town-crier makes known the event, so that the sick folk and pregnant women, etc., may have first choice in purchasing whatever quantity of meat they desire, and this cannot be refused to them.[1] Lastly, in the case of murder, violation of the village *anaïa*, etc., the *jamâ'ah* decrees the confiscation of the guilty person's lands, and even, if the case so requires, that portion of the victim's property is confiscated which the murderer wished to get hold of.[2]

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 279, 429.

[2] *Ibid.*, ii. 225.

[3] *Ibid.*, ii. 241.

[4] *Ibid.*, ii. 332.

[5] *Ibid.*, ii. 304.

[6] *Ibid.*, ii. 228.

[7] *Ibid.*, ii. 229.

To make this brief study of the condition of property among the Kabyles complete, there remains to be told in what degree rights of property are granted to or withheld from women; and then how property is transmitted by inheritance, or exchanged in commerce. In a former work, however, I have dealt with the disinheritance of woman in Kabylia, and later on I shall discuss inheritance and commerce in general.

V. *The Development of Property amongst the Berbers.*

Relying upon the facts above set down, and on the legitimate inductions authorised by them, a tolerably exact idea can be formed of what the development of property among the Berbers must have been. The first stage was that of the communistic clan having communal dwellings, and it was probably still extant among the Canary Islanders at the time of the European conquest. These clans at last separated into families, the members of which claimed descent through the mother, and still held all property jointly. Later on, the right of private property was recognised, or tolerated; but ancient customs held out, and yielded only by inches before the egoism of this last conception of property. The position in which the Tuareg woman was put marks an interesting moment in this development. In the name of ancient usage, she was not asked to contribute to the common expenses, any more than when she was formerly subordinate to the clan or the family, and possessed nothing of her own, while by virtue of modern usage her right to individual property was recognised, whence there resulted for her a condition of exceptional advantage: all the benefits and none of the burdens. Among the Kabyles, on the contrary, the woman has of late been looked upon as a chattel, and is quite disinherited; evolution has gone on, but still the family group holds out against it, and is considered more moral than individualism. In short, a great many customs, inspired by a keen feeling of solidarity, float on the surface, as the mental and moral outcome of bygone ages.

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 61.

[2] *Ibid.*, ii. 280.

The development of property among the Tuaregs has on more general grounds claims to be considered curious. When a people develops without too severe a shock, it does so by passing successively from the anarchic stage to that of the republican tribe, from the republican to the aristocratic and monarchic tribe, and thence to the great despotic monarchy. This progression has been disturbed among the African Tuaregs by historic events, and their attempts at monarchy on a large scale have been checked by conquering invasions. Now the system of great despotic states, as a matter of course, assists the hatching of individual property; for it changes the tribal right of eminent domain into subjection to the royal pleasure, which sports with the ancient solidarity of small groups and accustoms the individual to think of himself first. Nevertheless, the tendency to the state of individualism is so powerful that, even in the tribal republics of Kabylia, and without the demoralising influence of monarchic rule, it has made a breach in the old system of clan and family communal property, and has ended by triumphing first in law and afterwards in practice. Similar sociological phenomena may be observed among all the so-called superior races whose development has been cut short.

CHAPTER XII.

PROPERTY AMONGST THE SEMITES.

I. *The Arabs.*—Differences in origin and character between Berbers and Semites—The Phœnicians—Property in Carthage—The Nabatheans—Communal property in the Isle of Panchaia—Political organisation of the primitive Semites—Maternal filiation—Communistic customs—Property among the nomadic Arabs of Persia—Islamite right of eminent domain conferred upon the sovereign—Equality in sharing booty—The lion's share for the prophet—The setting apart of the fifth—Creation by Muhammad of private owners—The *Waḳfs*—Bondage and revealed religions—The *dhimmî*—Poll-tax and *Kharâj*—[A] *mîrîyyeh* lands—*Mulk* lands—Tithes—Alms—The *Hubus*—Usury forbidden—Solidarity—Family property—The highwayman and Abraham—Penalty in the Koran for theft within the tribe.

II. *The Hebrews.*—Primitive savagery of the Hebrews—Cannibalism—Sacrifice of the first-born—Pastoral property—The despoiled Canaanites—Agriculture in Judæa—Sharing of plunder—Distribution of lands among families—The shares of the great folk—Family domain—The *Yôbêl* in the fiftieth year—Eminent domain of the Levites—Levitical privileges—Sumptuary laws—Means of growing rich—Slaves—Humanitarian decrees—The Sabbath—Protective measures for the poor—Concerning debtors—Inequality of fortunes—Early invention of the bill of exchange—The temple as bank of deposit.

III. *The Evolution of Property amongst the Semites.*—Communal clans—Raids and flocks—Family and individual property—Raiding an incentive to commerce—"Business" instincts.

I. *The Arabs.*

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But a few years since, to pass on from the Berbers to the Semites, would have seemed quite a matter of course in any sociological work. A kind of consanguinity between the two was then so readily assumed, that sometimes it went as far as giving to the Berbers the name of Proto-semites.

To-day we know that there is nothing to justify this coupling of them. The Berbers of Africa, and even those of Spain, have had to submit to contact with and domination of the Phœnicians and Arabs; but the origins of the two races are far apart, the Semites being an Asiatic race, the Berbers western, and probably European. In fact, Africa, north of the Sahara, differs in no important respects from Southern Europe. Arabs and Berbers should not be confounded in any way, least of all from a sociological point of view. The latter early showed a marked preference for sedentary and agricultural life; the former, whilst yielding to the necessity of settling down, have for a much longer time adhered to their pastoral and nomadic customs. An adventurous life has had a keen attraction for them. The states or empires founded by them have always had as their aim war—the violent appropriation of the wealth of others by force of arms. The trading Semites, the Phœnicians, associated industry, commerce and war. Contrary to Herbert Spencer's theory, the industrial condition did not make them at all pacifically inclined, and they waged unceasing war in order to open up new markets. The Carthaginians, like their forefathers, the Phœnicians, did no tillage themselves; their fields in Lybia were worked by bands of slaves, chained two and two. About 20,000 of these forced labourers might have been seen working on certain Carthaginian lands. Property in Carthage, as it generally happens when commerce is the source of wealth, was amassed in a few hands. The large landowners lived in Carthage, crowding into the outskirts of the city the hapless proletarians, who could only feel indifference as to the fate of a country where they met with but poverty and neglect.[1]

Even to this day the greater number of the white race still leading a pastoral and nomadic life are of Semitic origin. These tendencies are of ancient date, since, according to Diodorus, in the Semitic tribes of the Nabatheans it was forbidden, under pain of death, to sow wheat, to plant fruit-trees, and to build houses.[2] The same writer, however, tells us of other Semites, compelled by reason of their insular abode to an agricultural life, as having adopted the communal form of property. These were the inhabitants of the Isle of Panchaia, on the coast of Arabia Felix; there "the husbandmen," says he, "put into a common stock the fruits of the lands they till, and he that is deemed to have tilled best receives a larger share in the dividing of the harvests. The priests proclaim the first, the second, and so on to the tenth, so that they may serve as examples to others."[1] But according to Diodorus himself the population of Panchaia was of a very mixed race. Concerning the very early social beginnings of the Semites we have no exact knowledge. Our information that dates furthest back shows them as already grouped in wandering tribes, chiefly pastoral; and it is allowable to suppose that, before founding their more civilised and more complex societies—those of Chaldea, Assyria, Phœnicia, Judæa—the Semites had adopted a social condition analogous to that of the anti-Islamite Arabs, and of the Bedouins of our own time. Now these lived, or still live, under the condition of the monarchic tribe. They have slaves, a *kâdî* dispensing justice,[2] and a venerated chief, who is approached only with marks of the deepest respect—such as kissing the ground[3]—and whose power is inherited by his eldest son.[4] This petty chief is always a military one, and a raid is never undertaken without his consent.[5]

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[1] Meyer et Ardant, *Question sociale*, 69.

[2] Diodorus, book xix., par. 96. (Dindorf, Paris, 1844.)

The early Hebrews were likewise divided into *tribes*, *families*, and *households*.[6] I have told elsewhere what the family evolution of the early Arabs has been, and how they too have passed through the condition of the clan and maternal filiation.[7] Even now, in the great Muhammadan families of the west, the rule is for the uncle to inherit the power instead of the son of the eldest brother;[8] and among the Arab Bedouins, although the dignity of *Prince of the Arabs* is usually transmitted from male to male, if it so happens that a prince leaves, as his only issue, a daughter, she is wedded to one of the chiefs of the tribe, the others consenting thereto, and she bestows upon her husband her rights and family name.[1]

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[1] Diodorus, book xix., par. 34.

[2] *Aventures d'Antar*, 8 (trans. Devic).

[3] *Ibid.*, 7.

[4] *Ibid.*, 2.

[5] *Ibid.*

[6] Joshua, vii. 10.

[7] R. Smith, *Kinship and Marriage in Early Arabia*, 145-147.

[8] H. Maine, *Ancient Law*, 242 (10th edition).

In my *Evolution of Marriage* I have recalled how communistic were the customs of primitive clans in Arabia; how there reigned among them usually a fraternal polyandry, contracts of fraternity, forbidden in the fifth century by the Syro-Roman law, whereby all things were held in common, not excepting the women and children.[2] Some very significant communal customs are still to this day extant among the Bedouins of Arabia and Persia. In Arabia an Arab is never seen to beg; it would be a disgrace to his tribe. If a Bedouin becomes utterly destitute, he goes and makes it known to his chief, who immediately calls the richest persons of the tribe together, says to them, "One of our brethren is in want. If you wish him to die, suffer me to kill him instead of hunger. If not, go; you know your duty." Every one then gives, according to his means, camels, sheep, corn, etc.[3]

Among the tribes of nomadic Arabs subject to Persian rule a system of combined individual and communal property exists. Each head of a family holds as his own property his cattle, household utensils, clothing, and tent, but over everything else a strict right of eminent domain is left to the *shêkh*, who has to pay to the Persian government a tenancy-fee for the territory occupied by the tribe, and in return may collect from every one a share for himself, besides dues on the sale of cattle, wool, corn, etc. The flocks all graze together. If one of the tribesmen wishes to grow corn, he must first pay a certain due into the *shêkh's* hands, after which the corn belongs to him, and he has possession of the field for a whole year.

Furthermore, there is a kind of federal bond between the various tribes, and the chief of the most important one regulates the order of pasturage. In the spring this chief sends the confederate tribes into the districts where the beard-grass is sprouting, which in a later stage of development would be unfit for pasturage. At the right time he disperses them over the spots, made useless in another month by thistles. The places where grass and wild oats grow are reserved to close the course of migrations. Finally, he allots the lands bordering on rivers to those who own buffaloes.[1] But so primitive a system is no doubt archaic, and fairly representative of that to which Arab property was subject in pre-Islamite times.

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[1] Mayeux, *Les Bédouins*, iii. 87, 88.

[2] R. Smith, *loc. cit.*, 131-135.

[3] Mayeux, *loc. cit.*, ii. 70.

The birth of Islamism, and, above all, its enormous expansion by means of the sword, have altered the views of the Arabs concerning property. The right of eminent domain, early granted to the sovereign, has been clearly formulated in theory, and its practical value determined. "The earth is the Lord's, and he giveth it as an inheritance to such of his servants as pleaseth him."[2] The Mussulman divines have decided that the terrestrial acres belonging to God, which he never uses, were, in fact, made over to his prophet and the faithful,[3] and this implies that all the lands not subject to Islamism have been usurped by their occupants, and form a hostile territory in opposition to Muhammadan territory, which is alone rightfully held.[4] But in the re-division of the so-called lawful lands, nearly all of them won by the sword, the sovereign, representative of God from the very outset of Islamism, cut off for himself a goodly share. In early Arabia the plunder taken by a band (and women were included in this plunder) was the common property of those who took it, and was lawfully divided at the end of the expedition.[5] This law of equal division was kept up by the prophet, but only in principle. As a fact, Muhammad awarded himself, in his capacity of God's envoy, the lion's share of all goods taken by Muhammadans. At first he claimed possession of all the plunder taken in the expedition against the folk of *al Nadir*, because it had been taken without the help of camels or horses. Later on this claim became customary and had the force of law, since plunder taken this way was evidently a gift more directly from God, and consequently it should be awarded his prophet.[6]

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[1] F. Houssay, "Souvenir d'un voyage en Perse" (*Revue des Deux Mondes*, 15 Février 1887).

[2] Koran, vii. 125.

[3] *Bokhari Traditionist*, ii. 72, 294.

[4] V. Berchem, *Propriété territoriale*, 8.

[5] R. Smith, *loc. cit.*, 126.

[6] G. Sale, *Preliminary Discourse to the Koran.*

Concerning all other plunder, gained by the help of the above-named quadrupeds, God's chosen one decreed that he should only take the fifth part before any division was made. "This fifth part," says the Koran, "belongeth unto God, and to the apostle and his kindred, and the orphans, and the poor, and the traveller."[1] The deduction of the fifth extends to landed property; but practically it can touch only the rent of it. Some lawyers, greater royalists than the king himself, have maintained that the prince might lay hands on everything, and share it as he listed.[2] The law has ended in becoming definite, and later it has been decided that all possessions acquired or rather conquered after a treaty of peace, either preceded or not by a fight, should belong not only to the fighters or to those who would have fought, but to the whole community,[3] of course after the deduction of the fifth. This system early resulted in the creation of vast state-lands, of which the prince held possession.

Muhammad, who, in his capacity of lawgiver, made laws especially for others, gave title-deeds with individual grants, some of which could even be transferred either by sale or bequest.[4] The successors of the prophet followed in his footsteps. Othmân and Omar made individual military grants.[5] The former even went so far as to grant the complete rights of property; and under his rule, land, separate from that of the State, was transmitted directly either by sale or bequest.[6] However, in the first conquests beyond Arabia, Omar turned the soil into *Wakf*, or communal lands, and he kept the original husbandmen there, making these conquests like countries that had yielded after a treaty of peace. He replied to a petition for a division of the land: "If I share it among the fighting men, nothing will be left for those who come afterwards."[7]

The practice of allowing the unconverted former inhabitants to remain on their lands on condition of cultivating them and giving up a portion of the harvests, had already been instituted by Muhammad, and it resulted in the formation of an inferior class, somewhat like the Roman *coloni*. But this relative favour was only granted by the conquerors to the people professing a divinely revealed religion, according to the Koran—that is to say, to Christians, Arabs, Jews, and to the Magi. As to the idolatrous Arabs, they had to choose between conversion or death, while the inhabitants of the lands given over to pillage became slaves if they had not been driven away or slain.[1]

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[1] Koran, viii. 42.

[2] G. Sale, *loc. cit.*

[3] V. Berchem, *loc. cit.*, 8.

[4] *Ibid.*, ii.

[5] *Ibid.*, 43.

[6] *Ibid.*, 39.

[7] *Ibid.*, 23.

The *dhimmî*, the *protected* infidel, became attached to the soil, which he was forced to till, but a kind of leasehold right guaranteed him against encroachments.[2]

We are led to believe that the Muhammadans treated these serfs mildly enough, for in several countries the masses by deed and entreaty invited Arab rule. In Egypt the Kopts openly came to terms with the invaders. In Syria, at Emesa, the inhabitants made known to the Muhammadans that they would rather have their fair dealing than the injustice and oppression of the Greeks.[3] Besides, we are not unaware that in Muhammadan countries to this day the slave himself is still treated with kindness. It is a tradition so to do among the Arabs, and on this head custom has not changed since pre-Islamite times. Was not the hero Antar the son of a negress-slave?

The condition of the unbelievers, conquered but left in possession of their lands, ought therefore to have been tolerable; but they were forced to pay a double tax: the poll and land tax, the *Kharâj*. The Koran strongly advises the exaction of the poll-tax from protected unbelievers. "Fight against them . . . until they pay tribute by right of subjection, and they be reduced low."[4] The *Kharâj* is the sign and the seal that conquest sets upon the land. When a man of the *Sawâd* petitioned Omar for exemption from the *Kharâj*, he replied, "But thy land has been taken by force."[5]

Thus there have been from early times several kinds of landed property instituted in Islam, some paying the tax of conquest, the *Kharâj*, others only the tithe, the religious tax. Those which pay the *Kharâj* are—1st., the lands conquered and left in possession of unbelieving owners; 2nd., the lands conquered and left with converted owners; 3rd., the conquered lands turned into *Wakf*, that is to say, made the property of the Islamite community. The cultivation of these last may be granted to the inhabitants.[1] The lands subject simply to the tithe are—1st., the property of Muhammadans of old standing; 2nd., the lands brought into cultivation by Muhammadans of old standing; 3rd., the lands divided as spoil among the conquerors.[2] But in Islamite theory, eminent domain over all things, *dominium*, belongs to God and to his vicegerent, the sovereign—"The earth is God's." Within the tribes it is the chief who exercises the right of eminent domain. In Turkey, in Egypt, the greater part of the land is [*A*] *mîrîyyeh*, and cannot be transmitted without the sovereign's authority; the holders of the soil have only the use of it. Certain land is, however, free, and the owners may dispose of it; this is called *mulk*.[3]

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[1] V. Berchem, *loc. cit.*, 15.

[2] *Ibid.*, 26.

[3] *Ibid.*

[4] Koran, Sura, ix. 29.

[5] V. Berchem, *loc. cit.*, 37.

No matter how it may be understood or used, the right of eminent domain may always be looked upon as a survival of primitive communal property. But, in the Mussulman world, many other traces of this right exist; the tithe, for instance, which is the only tax paid by true believers. The tithe is of divine ordinance; it forms part of the alms prescribed by the Koran: "O believers, give unto the poor a share of your wealth, which has been granted you by us, before the day cometh when there will be neither selling nor buying."[4] All property is subject to the tithe: flocks, harvests, gold, silver, goods and chattels. Almsgiving includes various works, besides the sacrificial victims, the flesh of which is distributed to the poor as *wakfs*, or charitable endowments.[5] The first *wakfs* were the lands annexed by Muhammad, and made inalienable after his death.[6]

Almsgiving is a divine precept: "What has brought you into hell?" the Koran asks the damned. "We have never fed the poor."[7] So in Muhammadan law a charitable donation is irrevocable, even when it is for the benefit of the donors' children.[8]

The *hubus* is enjoined; by this the owner of a thing gives the use of it for a charitable purpose during the time it will probably last, or for less. For that time, unless the beneficiaries die out, the property cannot be sold or mortgaged. Like many other things, the *hubus* has been often distorted from its purpose, and it has many a time served to benefit some heir, or more often to exclude women from inheriting.[1]

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[1] V. Berchem, *loc. cit.*, 30.

[2] *Ibid.*

[3] E. de Laveleye, *La Propriété*, 369, 370.

[4] Koran, Sura, ii. "La Vache."

[5] Jomard, *L'Arabie*, 201.

[6] V. Berchem, *loc. cit.*, 12.

[7] Koran, lxxix.

[8] Hanoteau et Letourneux, *Kabylie*, ii. 326.

In the early days of Islamism there existed a complete domain, the *fayy*, made up in its undivided form of accumulated wealth acquired from the whole of Islam. It was a reserve devoted to all expenses of public utility. Abû-Bekr, when resisting the claims of Muhammad's heirs on this property, quoted the words of the prophet concerning it: "These estates are my sustenance; God has granted them to me during my life. On my death they are to go to the Mussulmans."[2]

Some further communal customs in use among Muhammadans should be referred to, and, above all, the religious prohibition of usury, that is to say, of lending on interest generally. On this point the Koran is as clear as possible: "They who devour usury shall not arise from the dead but as he who ariseth whom Satan hath infected by touch." "God shall take his blessing from usury, and shall increase alms."[3] Let us further mention the right of common property over all that grows wild: "Anything that groweth wild may not become private property, the enjoyment of it belongeth to all;"[4] and lastly, the communal duty of revenge, and family property, survivals of the ancient system of the clan. Among the nomadic Arabs the whole tribe is bound to avenge one of its members, or to claim blood-money.[5] As to family property, it is usual among the Arabs. The family estate, wherever it exists, is held jointly by the persons concerned, who cultivate it in common and share the products among themselves. Each of the joint-owners can sell his share, but the others have the right of *shuf'ah*, that is to say, of lineal redemption.[6]

It might even be by a tradition of partnership in family property that the Arabs justify the highway robberies, which they are so ready to commit to the hurt of strangers. Pleading the wrongs inflicted formerly by Abraham on their forefather Ishmael, they say that their plunderings are merely reclaiming the ancient inheritance snatched from their ancestor. But their claims are big and their scruples small, for they unhesitatingly mix up all strangers with Isaac's posterity, supposing, without however going into it too closely, that there is a bond of relationship between them and the people whom they plunder. When telling about a deed of this kind they do not say, "I have stolen," but "I came across such a thing;"[1] and when throwing themselves, with lance couched, upon the traveller, they challenge him in these terms: "Strip thyself, accursed one, thy aunt is stark-naked," which means "my wife has nothing to wear."[2] By speaking this way they avoid saying "my wife," which would be quite unseemly, and they put the person assailed in mind of the supposed relationship between them.

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[1] Hanoteau et Letourneux, *Kabylie*, 235-237.

[2] V. Berchem, *loc. cit.*, 9.

[3] Koran, ii. 275, 276.

[4] V. Berchem, *loc. cit.*, 13.

[5] Jomard, *L'Arabie*, 109.

[6] E. de Laveleye, *La Propriété*, 97.

This little bit of hypocrisy in robbery by force of arms is only a kind of homage paid to the principle of respect for property according to Arab morality, but only to the property of a fellow-citizen, a man of the tribe. The Koran does not deal gently with the domestic thief: "If a man or woman steal, cut off their hands in retribution for that which they have committed; this is an exemplary punishment appointed by God; and God is mighty and wise."[3] Therefore, within camp, the nomadic Arabs are strictly honest.[4]

From all the facts above set forth enough can be drawn to sketch the development of property among the Arabs; to include in this description the entire Semitic race, we must pursue the inquiry into the little world of the Hebrews.

II. *The Hebrews.*

The sociological beginnings of the Arabs are better known to us than those of their Hebrew cousins; but it is certain that they have both been very similar and very humble. The following verse, from the *Wisdom of Solomon*, leaves a wide field for speculation, and that of the least flattering nature. "The old inhabitants of thy holy land . . . merciless murderers of children, and devourers of man's flesh and the feasts of blood."[1] Jehovah himself, who, at the time when this verse was written, had been much moralised, long exacted the sacrifice of the first-born of men, as well as of animals.

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[1] G. Sale, *loc. cit.*

[2] *Voyage fait par ordre du roi Louis XIV. dans la Palestine*, 220.

[3] Koran, v. 42.

[4] G. Sale, *loc. cit.*

Even when Hebrew fathers ceased to be cannibals, they held over their children the right of life and death, *à fortiori*, that of selling them, in accordance with the world-wide custom of savages.[2] For centuries the Hebrews were, like all Semites, shepherds and nomads. It is usually by the mention of his flocks, and them only, that in the Bible a man's fortune is valued; for example, "The man (Nabal) was very great, and he had three thousand sheep and a thousand goats."[3] It has been shown how the Semites generally have but little liking for agriculture, and the Israelites form no exception to the rule.

In Palestine they got possession of a land already cleared and planted by others, and, as the Bible says, of towns that they had not builded, houses full of things made by others, wells which they had not dug, vines and olive trees which they had not planted. Nothing could be pleasanter to God's chosen people, who had very little taste for manual labour. Everything was the work of the Canaanites, predecessors of the Israelites, and despoiled by them. These hard-working unbelievers, before they were pillaged, had cultivated the land in steps or terraces, to the tops of the mountains, as is done in China. To urge them into agriculture the Hebrews had to be promised rewards; as, for instance, the man who planted a vine was exempt from all military service until the time of the first lawful crop, that is, for five years.

In Judæa a mass of minute and strict rules fettered agriculture, but that is usually the case in all rude societies. Thus, a field might contain but one kind of growth, the vine, for example, and only the vine. It was forbidden to sow clover or sainfoin in a field sown with barley or wheat.[1] Concerning the primitive system of property among the Hebrews we know but little. In Genesis mention is made of fields which are at least family, if not private, property.[2] According to Exodus, we see the Hebrews organised in tribes and kindred clans. An inheritance, especially from the father, is kept in the phratry or clan; marriage is endogamous;[3] in default of sons, the daughters inherit, and then their property may pass with them to the husband's clan.[4]

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[1] *Wisdom of Solomon*, xii. 3, 5.

[2] Exodus, xxi. 7-17.

[3] 1 Samuel, xxv. 2.

As regards the sharing of the spoils of war, the Jewish customs are close copies of the Arabic. The fruits of a robbery by force of arms had to be divided equally between those who fought for and seized them and the prince, who was morally obliged to expend his share, or at least a certain portion of it, in works of public utility. At the outset, and when there was still existing a republican form of government, the brethren who stayed at home had the right to a share of the booty, and it was no doubt in virtue of his representing the community that the chief put himself in the place occupied before by his inferiors.[5]

As to the soil, it was at first divided among the families: "And the Lord spake unto Moses, saying, Unto these the land shall be divided for an inheritance according to the number of names. To many thou shalt give the more inheritance, and to few thou shalt give the less inheritance: to every one shall his inheritance be given according to those who were numbered of him. Notwithstanding the land shall be divided by lot: according to the names of the tribes of their fathers they shall inherit."[6] This referred to the land of Canaan, a conquered country. The divisions were very unequal, and naturally the great folk got the largest. For instance, the town of Timnah fell to the share of Joshua and his family,[7] Caleb obtaining the town of Hebron and the land round about.[8] But the passages quoted show clearly enough that these unequal lots formed family properties, of a collective nature therefore, and not easily transferred. As a fact, these estates were carefully defined by means of boundaries, and an anathema was hurled against any one who removed them. "Cursed be he that removeth his neighbour's landmark, and all the people shall say, Amen."[1] Such is the anathema, but it nearly always carried with it the penalty of death. The collective family estate, constituted in this way by general allotment, was not easily transmitted to strangers, and in no case could it be alienated for ever. Daughters inherited only when there were no sons, and once raised to the dignity of land-owners, they could no longer marry out of their tribe.[2] They had even to wed with their nearest relative, exactly as was the case in Greece, as we shall see presently. The Judaic law began by refusing the right to make a will, and later on rabbinical jurisprudence allowed it only when all relatives with rights of succession were dead or could not be found.[3] Finally, every fifty years, at the *Yôbêl* (Jubilee), the original distribution was revived and confirmed anew; all transfers of land agreed to during half a century became null and void. A Jubilee restoration put everything in its original condition, and the lands were given back to the families in whose possession they had formerly been.[4]

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[1] Mesnil-Marigny, *Histoire de l'Économie politique*, ii. 92.

[2] Genesis, xxiii. 13.

[3] Numbers, xxxvi.

[4] L. Morgan, *Ancient Society*, 545.

[5] Joshua, xxii. 8.

[6] Numbers, xxvi. 52-55.

[7] Joshua, xv. 10.

[8] *Ibid.*, xiv.

The Levites, whose rights and privileges weighed heavily on family property, had special rights of eminent domain. God, incarnate in the Levites, collected a tenth of all the produce of the fields,[5] of the trees, of the cereals, and the tenth born of kine, sheep, and goats.[6] To the Levites also belonged all the fruit borne by the trees every fourth year,[7] as well as all the first-born of domestic animals.[8] Even the first-born child, in the same fashion as the animals, had at first been sacrificed to a bloody Jehovah. Later on it was still in theory dedicated to the Lord, but its ransom was compulsory. Five shekels of silver paid to the Levites redeemed it.[9] Furthermore, at each triennial period, another special tithe of the tithes of increase was levied for the benefit of the Levites, and for the stranger, the fatherless, and the widow, since the latter had no rights of inheritance.[1] Besides this, around the forty-eight cities given up to these lucky Levites, a space of 2000 cubits was allowed for the pasturing of their flocks.[2] Taken as a whole, this division of the land of Canaan among its conquerors is exactly like the way the Arabs acted in similar cases, and it is therefore a startling confirmation of the common origin of the two races.

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[1] Deuteronomy, xxvii. 17.

[2] Numbers, xxxvi. 6-9.

[3] H. Maine, *Anc. Law.*

[4] Leviticus, xxvii. 24.

[5] *Ibid.*, 27-32.

[6] *Ibid.*

[7] *Ibid.*, xix. 24.

[8] *Ibid.*, xxvii. 26.

[9] Numbers, xviii. 16.

Israelitish industries, and the commerce of primitive Judæa, were but very slowly developed, in spite of race aptitudes, which later on were displayed, as we know, so brilliantly. It has just been shown that a change in the ownership of land was effected with difficulty, and never for an indefinite period. Among the Hebrews usury was forbidden. Sumptuary laws did not allow of luxury. For example, a garment could not be woven of different threads, of linen and woollen intermingled.[3] The chief means of becoming rich were, therefore, in Judæa, those usual in barbaric societies, conquest, robbery by force of arms, and even without force, according to the advice given by Moses to the Hebrews when coming out of the land of Egypt—namely, that they should borrow, with the fixed purpose of never giving them back again, the vessels of gold and silver and the precious raiment of the good-natured Egyptians.[4] In early times the Hebrews used metal money; Moses mentions shekels of silver, which were weighed, and which indeed may have been only bullion;[5] but it was not easy to hoard. Conquest and the pillage of war were therefore the chief resources, and by these means, in the event of victory, goods and slaves might be obtained. As usual, the Hebrew slaves were divided into two classes: true slaves, by capture; and the others, *i.e.*, slaves for debt, probably the sons of an insolvent debtor;[6] voluntary slaves, forced by poverty to sell themselves;[7] those enslaved for theft;[8] lastly, children sold by their parents after the manner of savages. It was only the latter classes of slaves that the Bible recommends to the good-will of their masters, and no doubt it was to them the septenary jubilee brought liberty.[1] The class first mentioned could alone form real capital. However, a great many moral and even legal precepts curbed the good pleasure of the rich among the Hebrews, and bear witness to the existence of the spirit of solidarity and communism which was to be met with in all civilisations of olden times, and the origin of which we are justified in attributing to the early system of the clan.

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[1] Deuteronomy, xxvi. 12.
[2] Numbers, xxx. 1-7.
[3] Leviticus, xix. 19.—Deut., xxii. 11.
[4] Exodus, xii. 3-36.
[5] Leviticus, xxvii. 25
[6] 2 Kings, iv. 1.
[7] Leviticus, xxv. 39.
[8] Genesis, xliv 17.

The Hebrew master might indeed ill-treat his slave, for the slave was his money; but, nevertheless, if the slave died within two days, his brutal owner was denounced as a manslayer. Paltry as it was, this restriction put none the less a curb upon the cruelty of the all-powerful master. It is like the pound of flesh which Shylock did not cut from the body of his debtor, because there was no way of doing it with the absolute exactitude required by the law.

Neither was the hired Jew without some protection. In the first place, his hire was to be given him before the sun went down, "for he is poor."[2] Like every one else, he had the right—much more, it was his strict duty—to rest upon the seventh day, the Sabbath, under pain of death. Hearken to Jehovah: "Ye shall keep the Sabbath therefore; for it is holy unto you: every one that defileth it shall surely be put to death."[3] The land itself had its year of Sabbath rest, every seventh year it was to be let lie fallow, and whatsoever it grew at that time of its own accord was the share of the poor first, and after them the wild beasts.[4] This humanitarian feeling did in very fact go as far as the animals, which were placed with a Darwinian simplicity on the same footing as the son of the handmaid and the stranger: "Six days shalt thou do thy work: and on the seventh day thou shalt rest; that thine ox and thine ass may rest and the son of thy handmaid, and the stranger may be refreshed."[5] In this they went even further, ordering a happy old age to be provided for the horses and asses that had toiled for a long time;[1] an excess of gratitude to be marvelled at in a people not naturally soft-hearted. In Judæa there was certainly more kindness for the ass than for the Philistine. Other protective measures had been decreed to the advantage of the humbler classes and the poor debtors: "No man shall take the upper or nether millstone to pledge; for he taketh a man's life to pledge."[2] "If thou at all take thy neighbour's raiment to pledge, thou shalt deliver it unto him by that the sun goeth down; for that is his covering only."[3] At harvest and vintage times they were not to be too careful, for the sake of the poor and the stranger: "And when ye reap the harvest of your land, thou shalt not wholly reap the corners of thy field, neither shalt thou gather the gleanings of thy harvest. And thou shalt not glean thy vineyard, neither shalt thou gather every grape of thy vineyard, thou shalt leave them for the poor and stranger."[4] Not only was the creditor forbidden usury—and interest in Judæa, as in all barbaric countries, was enormous—he should not even press upon the poor debtor like a pitiless usurer.[5] Furthermore, the rich were bound to invite, several times a year, the members of their family and all the poor of the neighbourhood to a great feast.[6] All these precepts, and there are a great many others that might be quoted, tend to show that the Hebrews or their rulers possessed a lively sense of social solidarity. They do honour to Israel, and ought to mitigate somewhat the harshness of fortune's favourites. But at the same time they bear witness that a great pecuniary inequality existed in Palestine, and the chief cause of it may probably be charged to the early establishment of private property. The land of the Semitic clan was at first parcelled out in family possessions, then in private properties, inasmuch as inheritances were shared equally between the male children, with the exception of the eldest, who had a double position. The law, therefore, allowed them to amass wealth; there was no lack of striving after it, and a good many succeeded therein: nothing is easier to develop in man than love of private property. The Hebrew proceeded to covet not only the ox, the ass, and the wife, but also the field of his neighbour, and he was able to satisfy many of these desires. In the absence of other information, the curses of Isaiah are enough to show us that it was so: "Woe," said he, "unto them that join house unto house, that lay field unto field, till there be no place, that ye may be placed alone in the midst of the earth!"[1]

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[1] Leviticus, xxv. 39-55.

[2] Deuteronomy, xxiv. 15.

[3] Exodus, xxxi. 13, 14.

[4] *Ibid.*, xxiii. 11.

[5] *Ibid.*, 12.

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[1] Josephus, *Against Apion.*

[2] Deuteronomy, xxiv. 6.

[3] Exodus, xxii. 26, 27.

[4] Leviticus, xix. 9, 10.

[5] Exodus, xxii. 25.

[6] Mesnil-Marigny, *Histoire de l'Économie politique*, ii. 78.

As a race the Hebrews were by nature inclined to the love of gain, and wondrously gifted for commerce and banking transactions, etc.; on the other hand, like all other branches of the great Semitic family, they had little taste for manual work. At a very early time, before any other people, they invented the bill of exchange, etc.[2] The temple at Jerusalem, the house of God, came at last to be used as a bank of deposit, wherein the Jews from all parts of the world piled up every year their precious metals. The treasure in the temple, said the High Priest to Heliodorus, who wanted to carry it off in the name of Seleukus, consists only of deposits.[3] Mammon, the god of bankers, had chosen the Holy of Holies as his dwelling-place.

The Hebrews were acquainted with all the chief forms of property: landed, personal, fiduciary, etc., and, by comparing their doings with those of their cousins, the Arabs, the whole history of property among the Semites can be traced.

III. *The Evolution of Property amongst the Semites.*

The Semites, when our knowledge of them begins, appear to have been starvelings and cannibals, grouped in clans, wandering with their flocks through a barren country. These nomads had communal customs, and freely practised polyandry. Within the clans the interest of the individual was mingled so closely with that of the community that infanticide of the new-born of the feminine sex was looked upon as a very praiseworthy action, as it lessened the number of useless mouths. The breeding of cattle, chief means of support among these barbarians, and never-ceasing raids at the expense of neighbours, early accustomed them to frequent sharings, which gave a stimulus to the development of private property. Under the guidance of their prophets, at one time Moses, and afterwards Muhammad, etc., they spread over the neighbouring countries, less barren than that they originally occupied. Their tribes, heretofore aristocratic, readily coalesced to establish despotic monarchies: Assyria, Judæa, the Mussulman kingdoms. Having thus become sedentary, the Semites did as little tillage as they possibly could, most often shifting the heavy burdens of agriculture on to the shoulders of the enslaved inhabitants of the conquered lands. In Judæa only were they obliged to take the trouble of field labour on themselves, having been foolish enough to exterminate the greater number of the vanquished, and besides, they had been formerly trained to this kind of labour by the Egyptians. It was then that family and patriarchal property were established. The customs of the early Arabs bear witness, however, to a prior period of maternal affiliation.

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[1] Isaiah, v. 8.

[2] Mesnil-Marigny, *loc. cit.*, ii. 225.

[3] 2 Maccabees, iii. 10.

Sharing the wealth of the vanquished at the will and pleasure of the monarch, who had his favourites of course, largely helped to quicken among the Semites the natural development which urges or has urged all groups of mankind towards private property. On the other hand, the rooted habit of making raids on their neighbours, especially if they were unbelievers, had early accustomed the Semitic tribes to exchange and commerce, which are the natural sequence of robbery by force of arms. It was very easy after a lucky foray to share everything that fell into their hands, but the articles acquired thus by chance were not always suitable to the holder, and as a matter of course he would barter them for such or such a prize that had fallen to a brother-in-arms. In time there grew up a taste for these profitable transactions, and when circumstances were favourable, as in Phœnicia, they became navigators and colonisers; they opened trading settlements on all the shores of the Mediterranean, freely combining commerce and plunder.

All these changes, resulting mainly from the surroundings among which the race developed, made it, above any other, fit for dealing with what is called "business." Property—

industrial, commercial, fiduciary—played an important part in several of its branches. In this sense the Semites were ahead of all other nations; and they kept the van, thanks to the Roman Conquest, which greatly increased the dispersion of the Hebrews, thanks later to the cruel oppression brought to bear on them by Catholicism. They were born for trading, banking, commerce, stock-jobbing; and their natural inclinations were encouraged because no other field for activity was left to them. Further on a few words will be said concerning the part they played in the Middle Ages. Just now it is enough to say that, taken on the whole, the development of property among the Semites has gone through the usual phases, passing from the communal to the individualistic condition. For a special token, the very early invention of the bill of exchange should be pointed out, as marking the forehead of Israel with a peculiar seal, and as distinguishing him among the nations.

CHAPTER XIII.

PROPERTY AMONGST THE ARYANS OF ASIA.

I. *The Vedic Aryas.*—Political condition of the Vedic Aryas—The Vedic priests—Excessive greed—Selfish prayers—Vedic industries—Vedic property—Unequal distribution of wealth—Charity enjoined.

II. *India of the Brahmans.* — Early history of the Hindus—Monarchic system — Rights of the sovereign — King-worship — Royal abuse of eminent domain—Tillage done by slaves—Privileges of the Brahmans—Slavery—Trade-guilds—Social organisation of India—The village community—Property in cleared lands—Immovable nature of landed property—Resistance to the parcelling out and conversion into personal property of the land—Organisation of the village—Tendency of the village community to disappear—Family groups—The patriarchal family—Family solidarity—Disintegration of the Hindu family—Industrial groups — Small industries and guilds — Hereditary crafts—Minuteness of regulation—Slavery of small extent—Honour paid to labour—Agricultural labour held sacred—Field-labourers respected in war-time—The cow venerated—Humane precepts—Usury limited—Hospitality — Help compulsory — Moral obligations of the wealthy—Insane charity—Rights of property lost by limitation—Social development in India—The kindred clan in Afghanistan—Periodical allotments.

III. *Property in Persia.*—Vagueness of the Avesta—Agriculture glorified—Owners and not-owners—The village community in Persia—Its organisation.

IV. *The Village Community.*—Generality of this system—Its beginnings—Outlives historic revolutions—Its advantages—Its moral influence—Slavery and the village community—Early clan stage.

I. *The Vedic Aryas.*

By good luck we know something of the sociological beginnings of the Berber race, which we have been able to trace to the highest degree of its development, in some respects unpretentious enough. By the help of induction and some ancient legends it is possible also to trace back with sufficient closeness the first phases of social evolution among the Semites. But a much thicker obscurity veils the cradle of the Aryans of India, perhaps because the historic sense, still very weak among Hindus, was but slowly awakened in the consciousness of this race, more prone than any other to mythological and metaphysical musings.

The Rig-Veda is the work of a people who had reached a comparatively advanced state of civilisation. It is important, however, to note that the hymns collected under the common title of Rig-Veda are of very different periods, and that it is impossible to class them chronologically. Taking them altogether, they describe a population organised in tribes. The tribes of the Veda have each a warrior-chief, a rajah, usually very wealthy. Thus it is in all monarchic tribes: the chief is rich or becomes so, either by war, which gives him the lion's share of the spoil, or by inheritance. The rajah of the Rig-Veda enriches himself in both ways.[1] In the process of evolution the Vedic tribes combine together, and submit to a supreme chief, a king of kings, a maharajah, the result of which is a kind of Vedic feudal system. It is easy to see that this monarchic development was principally brought about by the priests, who in very many texts are shown as grovelling before the Vedic petty kings, loading them with flatteries, and importuning them unceasingly for gifts, for which they give in exchange most extravagant eulogies: "This powerful king has given me a hundred *micheas* (of gold), and I, Kakshîvân, have carried the glory of this generous prince to heaven."[2] "This king has given me a hundred and twenty cows and two draught horses, drawing a costly load. O Agni, O Vaisvânara, as the reward of our praises and sacrifices, grant thy protection to Tryaruna,"[3] and so on. In short, the Vedic priests have set their successors, the Brahmans, very bad examples, which have only been too well followed.

A religious greed peeps out in a great many of these Vedic hymns, cried up sometimes as the final expression of lyric poetry, but which are most often merely effusions of selfish bigotry at fever heat, and so rude as to be almost barbaric. At a glance may be found therein confessions of faith such as this—" O wealth, sought after, much prized, which we abuse whilst we have it not, which we forget to hate when in our grasp."[1] Then come fervent prayers for wealth from the gods, to be obtained by means of self-interested offerings, above all by pouring out, in order to intoxicate them, draughts of the sacred liquor made from the *Soma* (the sacrificial plant). " O Indra, be thou our help, give us gold. Gold ensures wealth, victory, lasting and abiding strength."[2] " O Soma, bring us a rich abundance of gold, horses, cows, and men."[3] This classifying of men with domestic animals clearly points to a condition of slavery, and a brutal one too. Indra is implored for wealth as a reward for the offerings made to him; his worst feelings are appealed to, for he is advised to strip the impious for the enriching of the devout.[4] The god Agni is asked for " wealth, which may procure all the pleasures of life, and may render existence comfortable."[5] The favour of Indra is courted to obtain harvests and women. " He is to us, as the bucket that draws up the water from the well,"[6] say they, and so on.

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[1] Burnouf, *Essai sur le Véda*.

[2] Rig-Veda, sec. ii., lect. i., hymn v. 2-5 (Langlois).

[3] *Ibid.*, sec. iv., lect. i., hymn xix. 2.

At this period of their social evolution these greedy Aryas of the Vedic age had already attained to the greater number of the useful crafts, and even to a certain amount of luxury. They had horses, and knew how to harness them, which is not the case in extremely barbarous civilisations. " Agni, harness thy chariot, and spread over it thy bright beams."[7] " Harness the plough; make fast the ploughshare, scatter the seed."[8] It has been seen that the act of harnessing an animal to a plough, for purposes of draught, alone denotes a somewhat refined state of society. Barley was sown in the furrows that they had learned to trace.

At the same time, they had magnificent ornaments; the

[1] Rig-Veda, sec. i., lect. i., hymn v. 4.
[2] *Ibid.*, sec. i., lect. i., hymn viii. 4.
[3] *Ibid.*, sec. vii., lect. i., hymn xx. 18.
[4] *Ibid.*, sec. i., lect. vi., hymn i. 9.
[5] *Ibid.*, sec. i., lect. v., hymn xviii. v. 9.
[6] *Ibid.*, sec. iii., lect. v., hymn xiii. 16.
[7] *Ibid.*, sec. vii., lect. vi., hymn xviii. 6.
[8] *Ibid.*, sec. viii., lect. v., hymn vii. 3.

chiefs adorned themselves with precious stones; they had ingots of gold, used as money, no doubt. For these ingots and other costly articles they played at dice, comparing irreverently the intoxication of gambling to that produced by the liquor of the *Soma*.[1] With money came creditors and the fear of thieves, etc.[2]

How was property constituted in this comparatively advanced society? One cannot say exactly; but it will soon be shown that even in the India of our own times the system of the village community is still very widespread. There would, on this account, be little grounds for attributing property, as we understand it, to the Vedic Aryas. Reasoning by inductive analogy, there are reasons for supposing that these Vedic husbandmen, being still more than half pastoral, were for the most part in the stage of family property, held at the good-will of their petty despots. That they had both rich and poor among them is certain. Several texts from the Rig-Veda enjoin generosity, benevolence, even charity, showing that pecuniary inequality existed. "The benevolent man maketh ready a place for himself in heaven, and room among the gods. For such an one the heavenly waves will pour down their butter" (butter was then a sign of civilisation).[3] "When the rich man hardeneth his heart against the poor who ask of him food, against the beggar who asketh alms, when he keepeth all for himself, he findeth never a friend." "The benevolent man, kind to the unfortunate one who is an hungered and cometh unto his house, findeth honour in the sacrifice and hath friends. . . . Let the rich man succour him who hath need and who findeth the way too long. Fortune turneth like a chariot-wheel, coming now to one and then to another."[4] These humane texts make up somewhat for the greedy and coarse character, breaking out in so many other passages, of this famous collection. The last quoted, which speaks of Fortune's wheel, is probably of a comparatively modern date, and the pecuniary instability suggested by it usually indicates a society wherein personal property, easy to amass and to lose, already plays a very important part.

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[1] Rig-Veda, sec. vii., lect. viii., hymn ii.

[2] *Ibid.*

[3] *Ibid.*, sec. ii., lect. i., hymn iv. 5-7.

[4] *Ibid.*, sec. viii., lect. vi., hymn xii. v. 2-6.

There is more to be told concerning the formation of property in Brahman India, which is simply the sociological development of Vedic India.

II. *Brahman India.*

If the early chronology of the Chinese, a grave, methodical, unimaginative people, leaves much to be desired, it is no wonder that the old chronicles of the Indians should be altogether fabulous, seeing that they are a race gifted with an almost delirious imagination, and for a very long time without any history. At the time of Alexander's campaigns the Indians had completely lost all remembrance of their origin. They claimed to be aboriginal, and had only retained the faint tradition of a rude primitive barbarism.[1] The patient study given by the *savants* of Europe to the old Indian literature has made it possible to construct in full the history of a remote antiquity in India. We know now that the first inhabitants of the peninsula of Hindustan were not of Aryan race. The former occupants, "dasyus," "rakshasas," "monkeys," for whom the Vedic and Brahman scriptures have not curses enough, were, after prolonged struggles, subdued and partly destroyed by successive invasions of the Vedic Aryas, who burst into India at a very distant time by the valley of the Indus.

Once settled in their rich conquest, the Aryan conquerors strove to organise the country after their own style, and they succeeded in a great measure, but without, however, being able to triumph over many of the local manners and customs, which were too deeply rooted in the country. The Vedic maharajahs became great kings indeed, but they had beneath them petty kings of so little majesty that, as may be learned from the Code of Manu, their duty was to take personal part in the litigation between villages on the subject of property boundaries.[2] The greedy flattering priesthood, so often mentioned in the Rig-Veda, who had already driven the Vedic Aryas into organising themselves under despotic monarchies, won a complete triumph for their political system in India. Under their influence great monarchies were founded, in which, however, they kept the upper hand. Strictly exclusive castes were established, that of the Brahmans laying claim to extraordinary privileges. So long as the king respected the Brahmans, enriched and obeyed them, these pious folk regarded him as a superior essence, and desired others to worship him with servility. "The world," says the Code of Manu, "being without a king, was overwhelmed with fear. The Lord created a king, formed of particles drawn from the very essence of the eternal particles of the substance of Indra."[1]

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[1] Diodorus.

[2] Code de Manou, viii. 245, 246 (Loiseleur des Longchamps).

The sovereign, whose person is made from divine molecules, naturally lords it over his people with a high hand. The Brahman law gives him the right, in case of necessity, of which he alone is judge, to take to himself one-fourth of the harvests in his kingdom.[2] His "special duty is to conquer;" the rest does not matter. He levies heavy taxes upon cattle, crops, the output of mines, commerce. He exacts from the workmen and artisans one day's work every month for his own benefit; but he asks nothing from the military class, the Kshattriyas (those of the royal stock), and, above all, he must accept nothing from the Brahmans. "A king, even when dying of hunger, should not take tribute of a Brahman versed in Holy Writ."[3] It is the system of the great barbarous monarchy in all its glory. The king meddles in everything, personally or by his agents. Every six months he fixes the value of precious metals,[4] every five days the price of merchandise.[5] He forbids, as he lists, the importation or exportation of such and such a class of articles, or else he claims the monopoly, etc.[6] The lowly attitude assumed by subjects in the presence of Indian kings shocked the Greeks. "They are not content," says Strabo, "with saluting, bowing to the kings and chief dignitaries, the law wills that they should be worshipped as is the Divinity."[7]

Under this system of pure despotism the monarch has not only the right of eminent domain—for instance, to him revert estates without heirs[1]—but he also makes large profits out of the property of his subjects. In reality they hold it during his pleasure. In fact, this has been the rule from ancient times up to our own. The Indian monarchs of whose practices we have any real knowledge took so much of the produce in the shape of land revenue as to leave to the cultivating groups little more than the means of bare subsistence,[2] and this state of things lasted up to the time when our missionaries tried to convert the Indians in the seventeenth century. In the Marava the king granted villages and lands, revocable at any time, to certain of his vassals, who had in return to supply him with soldiers.[3] The feudatories evidently recouped themselves out of the vulgar herd, and must have behaved pretty much as did the kings of the Karnatic, of whom a missionary of olden times tells us in these words: "The Indians are extremely unhappy, and reap scarcely any benefit from their labours. The king of each state is absolute master and owner of the soil. His officers compel the townspeople to till a certain extent of land, which they mark out for them. When harvest time comes, these same officers make them cut the grain, and, having had it stacked, they put the king's seal on it, and then go away. When they think fit they come to carry off the grain, of which they leave but a fourth part for the poor husbandman. Afterwards they sell it to the people at whatever price they may choose, no one daring to complain."[4] At this period they had got well ahead of the Code of Manu. The sovereign no longer claimed one-fourth, but three-fourths, of the harvest.

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[1] Code de Manou, vii. 3-5.

[2] *Ibid.*, vii. 119.

[3] *Ibid.*, vii. 130-138.

[4] *Ibid.*, viii. 402, 403.

[5] *Ibid.*

[6] *Ibid.*, viii.

[7] Strabo, xv. 67.

But on a par with, and even above, the royal rights were the privileges of the Brahman; so these were not slight. "The Brahman on coming into the world is set in the highest rank on earth, as sovereign lord of all beings. . . . All that is in the world is in some degree the Brahman's property."[5] Armed with this divine right, even if he used it in moderation, the Lord's anointed led an easy and pleasant life. A Brahman should refrain as much as possible from tilling the ground, for in so doing he could not help killing a number of animals,[1] than which nothing is more grievous; but if he is in want, he is free to take as he will from a barn, a field or house, no matter which, on the sole condition of warning the owner.[2] Furthermore, the Brahman had the right of compelling the *súdra* (serf of the lowest caste) to work for him:[3] he could even steal with a clear conscience.[4] The *súdras* were strictly forbidden to hoard up precious metals, *lest*, says Manu, *they should give trouble to the Brahmans.*[5]

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[1] Mesnil-Marigny, *Histoire de l'Économie politique*, i. 91.

[2] Maine, *Village Communities*, 179.

[3] *Lettres édifiantes*, xiii. 16.

[4] *Ibid.*, x. 7.

[5] Code de Manou, i. 90, 100.

Slavery is not necessary with such laws, nor does it seem to have been as widely established in India as it was in the other barbarous kingdoms. It will be referred to again in connection with the village community. Slaves are not mentioned in the Rig-Veda; the Code of Manu tells scarcely anything of them, and Diodorus declares that the ancient Indian philosophers taught that it was wrong to have slaves.[6] Besides this, the traders formed, and still form, close guilds, each being in itself a caste, for crafts are hereditary, and the craftsmen cannot marry outside their own group.[7]

It is needful to say, however, that a theocratic society has doubtless never existed exactly as it is described in the Code of Manu. It seems to have been chiefly a Brahman ideal, from which, in every respect, the India of to-day is a long way off. In the opinion of Sir H. S. Maine—that is to say, of a very well-informed writer—the Brahman theory of caste above caste is only an invention of the priests. What does exist is "a priestly caste, which, in a certain though a very limited sense, is the highest of all, and there are besides some princely houses and a certain number of tribes, village communities and guilds, which still in our day advance a claim, considered by many authorities as being extremely doubtful, to belong to the second or third of the castes." Outside these great divisions there are only trade-guilds, traders, manufacturers, and husbandmen organised in social groups.[8]

With regard to landed property, the institution which exists to this day, having outlived all conquests, and which is distinctly traceable to a very remote antiquity, is the village community. In the fourth century B.C., Nearchus, lieutenant of Alexander, affirms the existence at that time in certain parts of India of groups cultivating the soil in common, and dividing among themselves the fruits and harvests. Whenever the quantity exceeded their needs, the surplus was burned, says he, so that no one could be idle. He points out the rule of custom as filling the place of written laws.[1] The Code of Manu, for its part, enjoins the leaving of an uncultivated space, 400 cubits or three casts of a rod, round a village for pasture land, and three times that extent round a town.[2] It evidently meant a space held in common, without being split up. When the same code speaks of bickerings *between the villages* concerning boundaries, and advises the king to plant trees thereat to mark the limits,[3] it testifies also, surely enough, to the existence of the village community. The code further allowed private or family property in the house, garden, field, and a sheet of water.[4] But was this complete proprietorship or merely during occupancy? It cannot be decided on a single text. This much is certain, that, according to Manu, the clearing of an uncultivated plot gave the right of private property: "A tilled field is the property of him who hath uprooted the trees on it, cleared and ploughed it, even as the antelope belongeth to the hunter who hath wounded it unto death."[5] It is the right of the first clearing so generally recognised everywhere. This has been shown to exist also in Java, where Indian influence is so powerful, with this difference, that the Javanese *dessa* usually grants only a temporary enjoyment to the clearer. It may be further noted, that among the aborigines of Central Bengal instances of periodical redistributions of cultivated fields can be proved even to-day.

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[1] Code de Manou, x. 83, 84.

[2] *Ibid.*

[3] *Ibid.*, viii. 413.

[4] *Ibid.*, viii. 417.

[5] *Ibid.*

[6] Diodorus, ii. 39.

[7] Dalton, *Ethnology of Bengal*, 323.

[8] Maine, *Village Communities*, 56, 57.

Before the intrusion of Europeans into India there existed in that country nothing analogous to our landed property. The soil had never become personal property, like ordinary goods. Ownership did not carry with it the right of sale. The seizure and sale of lands in payment of private debt were things utterly unknown. Such ideas could not even enter into the heads of the natives. Only certain lands, probably those that the owner had cleared, could be transferred by mortgaging.[1] But, as a rule, conveyance of land was possible in India only with the consent of the occupiers, neighbours, and relatives.[2] Even to this day sales of land are rare, despite the facilities granted by English law.[3] Campbell relates that there are some villages in the Presidency of Madras which for the last half century have been apparently subject to the individual taxation of the English, but which have in reality paid their taxes in a lump sum, assessed afterwards among the inhabitants.[4]

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[1] Strabo, xv.

[2] Code de Manou, viii. 237.

[3] *Ibid.*, viii. 245, 246.

[4] *Ibid.*, viii. 262-264.

[5] *Ibid.*, ix. 44.

These Indian villages are organised somewhat like the Javanese *dessa.* Forests and uncleared lands are common property, but not so the arable land. A chief, in some instances elected, in others hereditary, governs the village, assisted at times by a council. Certain crafts, reckoned as indispensable, such as the shoemakers, curriers, and so on, are raised to the dignity of functions exercised hereditarily by particular families, to which, by way of indemnity, plots of land are granted. Their priest, keeper of the treasury, and others are treated in like manner. These village communities in Bengal bear a strong resemblance to those which are sometimes to be met with in Europe among the Slavs and Teutons. Each of them forms a group of families said to have sprung from a common ancestor and holding property in common. In this assemblage each household is only a subordinate unit.[5] There is a close solidarity. Every family must submit to the rules of traditional cultivation, in many cases minute, and, above all, it cannot sell its share without the consent of the rest of the villagers.[6] The village is a little social organism, self-governed, having its own police and courts of justice; its members sharing among them the public expenses.[7] From time to time the Hindu village admits strangers, after examining them, just like the Javanese *dessa.*

[1] Campbell, *Systems of Land Tenure in India*, 151.

[2] Colebrook, *A Digest of Hindu Law*, ii. 161.

[3] E. de Laveleye, *De la Propriété*, 168.

[4] Campbell, *loc. cit.*

[5] Maine, *Village Communities*, 12-18 (1871).

[6] *Ibid.*, 13, 103.

[7] Maine, *Ancient Law*, 262, 10th edition.

These village communities have no written laws; they obey traditional customs, which no one dreams of resisting. The council of elders has usually no need to give orders. "It merely declares what has always been;"[1] that suffices. Owing to the enormous length of time that the system has lasted, the impression it has made is almost ineffaceable.

On the lines of the great canals of irrigation the government bargains with each village for a certain quantity of water, and leaves the inhabitants to divide it among themselves as they please, and this division is made according to the minute directions of the council of elders.[2]

In the Punjab each inhabitant retains a portion of land, the extent of which is expressed in "ploughs," the size varying.[3] The very term "ploughs" seems to point clearly to an ancient method of allotments. Indeed, the persistence of customs minutely regulating every detail of agriculture within these communities is even more characteristic, and testifies in the same direction.

The village communities, which are to be met with everywhere, and always at the basis of Indian society, are endangered in these days by the appetite for private property. Even without the aid of English influences, they are tending to divide themselves into lots of their own accord. In principle, they already admit the divisibility of common lands, the method being undefined. According to Elphinstone, the communities now go so far as to recruit themselves by admitting the buyers of shares. That they still exist is only because custom requires the consent of the community in partitioning the land, and for the admittance of a stranger;[4] for the village still keeps its right of eminent domain, and, moreover, the making of wills has not yet come into general use.

In the Hindu village community, the moral bond that carries most weight is the respect and solicitude for kinship. As we have seen, all the inhabitants of the same village are supposed to be descended from a common ancestor, who would, therefore, have been the founder of the village. A general study of the development of the family shows that everywhere the ties of paternity, at first confused and vague, became limited, according as they were defined, and that the small family of one household at last emerged from the family clan. In the long run, the result was that the clan became divided and its property also; the small family groups retain, nevertheless, certain communal ideas concerning property and solidarity which had prevailed in the clan, of which these families were but the outcome. This is the case with the Hindu family. Wherever English legislation and example have not shaken it, this family is made up of an assemblage of persons, who would have shared in the rites at the time of the obsequies of a common ancestor, supposing him to have died in their lifetime.[1] Of these so-called joint families, those that possess landed property have in common their food, worship and estate, but the existence of the latter is not indispensable. It is on blood-kinship, not landed property, that the union is based. Thus the joint family often lives by trade or the practice of a handicraft.[2]

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[1] Maine, *Village Communities*, 68. [2] *Ibid.*, 109, 110.

[3] E. de Laveleye, *De la Propriété*, 351.

[4] Maine, *Ancient Law*, 263-266.

The Hindu family is strictly patriarchal. It is ruled despotically either by the father or the eldest son. No one of alien blood can be admitted therein. Each household is isolated, and an extraordinary secrecy is maintained, even in the very humblest of them.[3] The natives declare that life has become intolerable since the English criminal laws have begun to treat women and children as if they were men.[4] The Code of Manu sanctions and even commands the right of division after the death of the father, but formerly, especially before the time of English rule, nothing was divided. Families existed that, according to tradition, always had lived jointly, and wherein everything gained by the children went into the common hoard, even after the father's death. The closest ties united the members of the family. The father had no right to disinherit his children, whatever crime they might have committed against him, and each was responsible for the other's debts.[5] Neither had the father any right to make a will; at most he could, like the Roman *pater familias* formerly, arrange how the family property should be divided among the children.[1] In Lower Bengal, however, where the village system was greatly broken up, the head of a household had the power of disposing of his estate during life.[2]

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[1] Maine, *Early History of Institutions*, 107 (1875).

[2] *Ibid.*, 79

[3] Maine, *Village Communities*, 113, 114.

[4] *Ibid.*, 11-116.

[5] *Lettres édifiantes*, xiv. 393.

Natural evolution, helped greatly in this case by English influence, is in a fair way to destroy the joint family in India. Formerly the children could own nothing during their father's lifetime.[3] Nowadays a son, simply by right of birth, has not only a claim on the paternal estate of joint-ownership, which may still tally with family grouping, but he can sometimes, when he attains his majority, insist on the estates being divided, even against the wish of his father. Furthermore, one of the sons, having the paternal assent, can exact the division of the property, even against the desires of his brothers; in this case the father, having put himself on a level with his children, has no longer any advantages over them.[4] These divisions before inheritance, as well as the divisions after decease, for it often happens that a brother wishes to separate from the group, are fast breaking up the joint families in India. To these causes of decay executions for debt must be added. Many creditors, who would not have dared to attack a village community, unhesitatingly sue a single debtor,[5] and it has been shown that liabilities for debt were joint. Brahman law in itself had begun the disintegration of the family by allowing that if one of the members of a joint family had acquired wealth by personal skill or the practice of a liberal art, this wealth need not go into the family estates, provided that the knowledge and skill of the owner did not result from an education acquired at the expense of the family.[6]

The family groups, ever being sapped on one side or another, now no longer exist for any length of time. They seldom last longer than two or three generations; but their arch-enemy, English law, although the chief factor in their destruction, still recognises their legal existence so long as they last. "According to the true notion of a joint, undivided Hindu family," said the Privy Council, "no member of the family while it remains undivided can predicate of the joint, undivided property that he, that particular member, has a certain definite share. . . . The proceeds of undivided property must be brought, according to the theory, into the common chest or purse, and then dealt with according to the modes of enjoyment of the members of an undivided family."[1] Outside these family groups there exist others of an industrial nature, much more numerous, and wherein, although they are less strict, solidarity is still potent.

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[1] Maine, *Village Communities*, 40, 41. [2] *Ibid.*, 40.

[3] Mesnil-Marigny, *Hist. de l'Économie politique*, i. 88.

[4] Maine, *Ancient Law*, 228, 10th edition.

[5] *Ibid.*, *Village Communities*, 113.

[6] *Ibid.*, *Early History of Institutions*, 110.

In aboriginal India manufactures on a large scale have been and are unknown, and the minor crafts are grouped in corporations or guilds, close as the great Brahman castes, but recruited nevertheless from without, unless they are to be thrown in with the badly defined caste of the Vaisyas. In India, as in all primitive monarchies, all crafts are hereditary, and the craftsmen of each group are to a certain extent related, for they really practise endogamy, inasmuch as they never marry outside their guilds.[2] Each group is closely united, they call themselves "brothers," and are mutually eager to aid one another.[3] But this solidarity cannot exist without hindering more or less the liberty of the individual. Industrial produce is therefore strictly regulated in India, not only by Brahman laws, which went so far as to exact, under penalty of a fine, that a weaver should, in return for a given weight of thread, deliver a fabric weighing exactly an eleventh more, because of the rice-water used by the artificer to soak the cotton,[4] but farther and chiefly by the tyranny of custom, which fixes or used to fix immovably the sale prices of manufactured wares.[5] All industrial labour, and the transactions to which it gives rise, are therefore quietly and regularly carried on without variation, by the minor crafts grouped in fraternal guilds, and trading their products at prices fixed once and for all.

The Greek writers expressly state that slavery did not exist in India, and that the Indian philosophers even taught the equality of mankind.[1] But it was quite a relative equality, because caste rule was based upon a frightful native inequality. Truth to say, it was the existence of a servile caste, the Súdras, that made domestic slavery useless to the privileged classes, but nevertheless such slavery is frequently mentioned in the Code of Manu.[2] However, in the heart of this society, imbedded as it is in wrong-doing, are still to be found laws, customs, and sentiments prompted by a keen enough sense of solidarity. This is to a certain extent usual in all the great early states, and is certainly a survival from preceding social stages.

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[1] Moore's "Indian Appeals," xi. 75 (in *Early History of Institutions*, 79).

[2] Dalton, *Ethnology of Bengal*, 323.

[3] Mesnil-Marigny, *Hist. de l'Économie politique*, etc., i. 59.

[4] Code de Manou, viii. 397.

[5] Maine, *Village Communities*, 190.

Some typical facts concerning this may be quoted here. From the outset the Code of Manu, whilst subordinating labour, granted it great immunities. It was elevated morally by the maxim that "the hand of the labourer is always pure while he works."[3] But in these barbarous societies industrial labour is, relatively, of small account; agricultural labour is the most important of all. Now, in the eyes of the Indians, field-work was sacred to such a degree that in war-time the husbandman was counted neutral by the hostile parties. The Greeks were not a little astonished at those customs. "Among the Indians," says Diodorus, "the husbandmen, who are held sacred and inviolable, can without any danger go on with their work in the neighbourhood of armies drawn up for battle. The warriors slay each other, but do no harm to the husbandmen, whom they look upon as their common benefactors; they never set fire to their enemies' fields, nor do they cut down any of the trees."[4] The religious respect which the Hindus profess for the cow, ridiculous as it seems to us now, is also prompted by the same train of thought. The killing of a cow is, according to Manu, one of the greatest crimes.[5] It has been shown in the preceding pages that the Egyptians also, without going quite so far, forbade the cow to be used as a beast for the shambles.

Several other humanitarian precepts are noticeable among Indian laws and customs: thus, according to Manu, and as was always the case in Egypt, the accumulated interest on a sum lent should never exceed the total of the debt;[1] interest should never be demanded on the money lent to any one in distress;[2] the Brahmans and Kshahtriyas ought never to lend at interest even to meet a pressing need;[3] this was considered as incompatible with the privileged position they enjoyed in Hindu society.[4] Hospitality is a duty; the belated stranger should be received into a house at whatever hour he asks to be admitted.[5] The penalty of banishment is pronounced on those who do not hasten to help at first sight of brigands on the high road, when a village is plundered, or when a dyke bursts.[6]

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[1] Diodorus, ii. 39.

[2] Code de Manou, v. 129.

[3] *Ibid.*

[4] Diodorus, ii. 36-40.

[5] Manou, xi. 59, 108-116.

It was expected that wealth should not be egoistic; and even in the seventeenth and eighteenth centuries the rich man was morally obliged to devote part of his fortune to works of public utility, the opening up of roads, the planting of trees by the roadside, the building of shelters for the wayfarer—for there were no inns in India—but above all, the digging of reservoirs to assist cultivation, that of rice in particular.[7] Voluntary penitents were to be seen—crazy on the point of charity—having a heavy iron collar rivetted round their necks, and exhibiting themselves thus in public to collect alms for the digging in a barren plain[8] of a pond (*tarpaculam*) lined with stone. Furthermore, a rich man's property does not protect itself; the owner must occupy it, and, if need be, reclaim it. An estate is lost if for ten years the owner, without making a formal claim, has allowed another to enjoy it peaceably under his nose. In the last chapter a very similar law has been mentioned as existing among the Kabyles. Nevertheless social solidarity is much stronger in Kabylia than it is in India, but that is because the former is still organised in republican tribes, much nearer to the primitive communal condition, of which the village communities are only the standing ruins. Nevertheless the early stages of the vast Indian society have not been different from those of others, and a certain number of facts and customs, to which I have called attention in a former work,[1] go to confirm the inductions authorised by the existence of the village communities. It is allowable to infer that at a long distant period India passed, like most other countries, through the social stage of the tribe divided into kindred clans, living upon common property.

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[1] Manou, xi. 59.

[2] *Ibid.*, viii. 153.

[3] *Ibid.*, x. 117.

[4] *Ibid.*, xi.

[5] *Ibid.*, 99, 105.

[6] *Ibid.*

[7] *Lettres édifiantes*, vol. xv. p. 284; vol. v. p. 64.

[8] *Ibid.*, v. 64, 65.

This condition is still existing among the Afghans, whose customs recall in more ways than one those of the Vedic Aryas. The people of Afghanistan are, in fact, divided into tribes formed of exogamic clans, and the division of property conforms to this social organisation. Each tribe possesses a certain territory, which is common property, and every five or ten years a redistribution of the public land takes place.[2] There is nothing unusual in this custom, and, what is more, these periodic distributions in Afghanistan do not take place between individuals, nor yet between families, but between the clans themselves; hence there is a general *chassé-croisé*, and whole villages change places, which indicates an earlier form of clan or village community.

III. *Property in Persia.*

By collecting and blending the accounts which we possess from various sources concerning ancient and modern India we may succeed in sketching, with tolerable correctness, the development of property among the Hindu branch of the Asiatic Aryans. But as to what the same development has been among the Persian peoples we are much less well-informed. All that can be got out of the liturgic medley of the Avesta is that the early Persians were fanatically devoted to agriculture. Field labour was, for the compilers of the Avesta, an act of religion. "Who rejoices this earth with the greatest joy?" Then answered Ahura-Mazda, "He who most cultivates the fruits of the field, grass and trees, which yield food."[3] "Then this Earth speaks to him: Man! thou who cultivatest me with the left arm and the right, with the right arm and the left, always will I come hither and bear. All food will I bear together with the fruits of the field."[1] "When there are shoots, then the Dævas (demons) cough; when there are stalks, then the Dævas weep; when there are thick ears of corn, then the Dævas fly."[2]

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[1] *The Evolution of Marriage*, etc.

[2] Forgues, "Vie des Afghans," *Revue des Deux Mondes*, 1863.—Elphinstone, *Cabul*, ii. 17.

[3] *Zend-Avesta*, xii. 76, 77. A. H. Bleeck's trans. of Spiegel's version (London, 1864).

Thus the Mazdanyacnian community was, above all things, agricultural; cereals were chiefly cultivated, and, if the translation of the Avesta be correct, bread was already in use. Moreover, this sacred code tells us that in Persia the land was certainly not held in common. "With regard to the married, I call them, O holy Zarathustra, before him who is not married; him who has a household before him who has none; the father of a family before the childless; the rich before the poor."[3] But of the conditions and system of the proprietary rights, neither the Avesta nor the Greek writers tell us anything further. This complete silence forces us to deal with only the existing state of property in Persia. Now it seems that Islamism and the boundless despotism of the Shahs and their officials have not seriously modified the primitive methods of ownership. In fact the village community, much akin to that of India, is to be met with in Persia. The village lands appear, indeed, to be still the last unit of landed property there. But the villages are all owned by some high personage or another. Consequently the inhabitants of each village community are liable to forced labour at the whim of the lord of the manor. They pay a tax to him, and must also deposit another in the treasury for the prince, who holds the right of eminent domain. Over and above the tax and forced labours, each village owes its master, the lord of the manor, butter, cream, melons, wood, and straw for his horses.[4] As in India, each Persian village has its chief, who is responsible for the revenues due to the owner and for the tax. The duty of this chief consists therefore in sharing the expenses between the villagers in proportion to the means and harvests of each. It follows that the lands of the village are distributed among the families according to the number of hands they have at their disposal.[1] Every grandee of the first rank owns several of these villages; some of them have a hundred. This primitive arrangement in village communities certainly dates back to the very earliest times. We have found it to be almost the same in India, Java, even in China, and we are therefore in a position now to make a general estimate of it.

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[1] *Zend-Avesta*, iii. 88, 89, 90. A. H. Bleeck's trans. of Spiegel's version (London, 1864).

[2] *Ibid.*, Fargard iii., v. 106-108.

[3] *Zend-Avesta*, *Vendidad*, Fargard iv., v. 131-133.

[4] Drouville, *Voyage en Perse*, i. 136-138.

IV. *The Village Community.*

Looked at in the whole, it might be said that the entire Aryan populations of Asia have remained in the village community form of government, and that China itself keeps to it in its main features. We have met with this system elsewhere; we shall meet with it again in Europe. It is therefore no exaggeration to say that it has suited and still suits more than half the human race. It must needs therefore have considerable advantages. The peoples within it are literally rivetted together, and the most unbridled absolutism, that of the Persian despots since the time of Xerxes, for example, has not been able to destroy it. Now this village community dates back to the very beginning of societies, for it has evidently sprung from the republican clan—that is to say, from the earliest social organisation. Without doubt primitive communism in goods, and to a certain extent in women, was limited.

Families at first maternal, afterwards paternal, made a breach in the unity of the clan, but the system of solidarity remained all the same; it has only changed its basis with the progress of civilisation. The unity of the members of a clan, when they lived by hunting, rested especially on kinship. When once agricultural industry became established social welfare depended chiefly on the distribution of land and its advantageous cultivation. Above all things it was needful to get as much as possible out of the land, and so no scruple was made about admitting into the group any strangers who offered good securities. The addition of fresh workers took the place of the practice of adoption prevailing among the early clans.

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[1] Drouville, *Voyage en Perse*, i. 136-139.

These little village republics held their own under all conditions, even after the political, independent tribe had completely disappeared. The despots were satisfied with imposing taxes and forced labours upon them, for they had nothing to gain from their destruction. But this system of the village community had more than one beneficial result for its members. In the first place it ensured them against many causes of destruction, and we see that, wherever it has endured, mankind was not only preserved, but has sprouted thickly, like wheat-ears in a field well sown. Other results, both moral and social, have flowed from this system. To start with, the individual did not learn to separate his own from the lot of the community; on the contrary, sentiments of sympathy, humanity, and solidarity germinated and became implanted in his mind. And finally, that great sore of barbarous societies, slavery, became unnecessary. No doubt the despots, the monarchs, had under their immediate rule some slaves, despite the village community. Naturally all things were permitted to them, and we read in Herodotus that "the king of kings had slaves;"[1] but the villages had nothing to do with them. Consequently slavery dropped out from among their customs. It has always been very limited in China, still more so in India, where a servile caste has existed, but few personal slaves. To sum up, the system of the village community has been for a great portion of mankind both protective and moral. Furthermore, as it has evidently sprung from the primitive clan, it is clear that this social form has really been a general stage through which the entire human race, more or less civilised, has had to pass.

[1] Herodotus, i. 137, etc.

CHAPTER XIV.

PROPERTY IN ANCIENT GREECE.

I. *Origins.*—Old theories—Early Hellenic tribes—Clans—Communal property at Athens and Sparta—Selection at Sparta—Communal meals, etc., at Sparta and in Crete.

II. *Slavery in Greece.*—Aristotle and slavery—Various ways of becoming a slave—Master's rights over the slave—Lot of the slave—Enormous number of slaves—Relatively mild condition of the Athenian slave—The slave owned as a chattel—Artisans held in contempt—Guilds.

III. *Real Property in Greece.*—Communal lands—Allotments—Sale of land prohibited—Mortgage and division of the land—Solon's reform—Restrictions on individual liberty—Solon recognises private property and the right of testation—Hindrances to making the land personal property—Duties of the rich—Progressive taxation—Law of exchange—Property but little divided.

IV. *Personal Property.*—Early personal property—Slavery and piracy—Commercial morality—Industry—Excessive protection—Rate of interest—Small industry—Frequency of festivals.

V. *The Abuses of Property at Athens.*—Solon admits his want of success—Privileges of the rich—The plutocracy—No patriotism among the rich—Social wars—Mercenary armies—Dearth of men.

VI. *Communal Property in Greece.*—Reforms of Lycurgus—Division of land—Communal meals obligatory—Communal meals in Crete—Sociability of the Spartans—Communistic customs at Athens—Sumptuary laws—Eminent domain—The spirit of solidarity in the writings of the philosophers.

VII. *Evolution of Property in Greece.*—Beginnings—Last flight of individualism—Riches cause decay.

I. *Origins.*

Greece for a long while was known only in its historic times, and considerable progress in sociological anthropology was necessary before the idea of going further back was even thought of. Religious ideas, which rule as very despots, had long accustomed men's minds to admit without question the notion of instantaneous creations. It is only a few years since the doctrine of sudden changes was taught by the learned in all our schools of science; it is even still taught, but with much less confidence. The natural history of our globe was supposed to be made up, as it were, of a series of geological revolutions, successive and instantaneous, of cataclysms in fact. At the beginning of each epoch a new flora and a new fauna sprang into being, lasted a few centuries, then as instantaneously as they had been born, ceased to be, yielding place to a new creation on the day that the great manager of the universe thought fit to make a change in the scenery.

This method of apprehending the world was easily carried into the history of mankind, and the problem of ethnic and sociological origins did not present itself. Early civilisations, which in the beginning of historic times had already waxed great and prosperous, were supposed to have come about by a kind of spontaneous generation, even as, according to Homeric tradition, the first men had issued full-grown from the gnarled sides of oak-trees. These puerile imaginings are dead; we know now that all civilisations are the results of a very long and very painful child-birth. We have also come to know, at least in outline, how these sociological creations were effected, and ethnography on this subject has provided us with valuable instruction, confirmed by the traditions, legends and relics of civilised nations. We are therefore in a position to trace back, at least roughly, the social beginnings of Greece. The first Hellenes, the only ones at least of whom we can find historic or legendary trace, were grouped in little independent tribes, subject to military chiefs, in every way comparable to the caçiques of the Redskins, and treated by their subjects with scant respect.[1] In these half-savage tribes the power was usually transmitted from the father to the eldest son. On the whole it was the system of the monarchic tribe, but as yet not well established. It is important to note that these tribes were subdivided into clans; thus tradition says that early Athens was made up

[1] Plutarch, *Life of Theseus*.

of several villages, which Theseus welded into one.[1] The Hellenic clans must have had, from the outset, a communal organisation closely resembling the Redskins' clans. In fact, the Greeks had preserved the memory of a period prior to Cecrops (seventeenth century B.C.), during which their ancestors lived in promiscuity; in short, a mass of evidence goes to show that in Greece, as in every other place, the maternal preceded the paternal or patriarchal family.

That property in these barbaric clans must have been more or less communal, sociological induction in the first place, and further, the early organisation of Sparta and of several other cities, do not allow us to doubt. We read in Plutarch that at Sparta every new-born child had to be brought by its father before the elders, who, if it were well formed, allowed it to live, assigning it a piece of land; but if it were weakly or deformed, caused it, with the utmost simplicity, to be thrown into a deep cavern called "The Apothetæ."[2]

Many other usages which long bore sway in Sparta clearly bear witness also to communal habits. Let us recall the common table, the lending of wives, the fraternal use of victuals, dogs, and horses.[3] This system of communism was not met with in other parts of Greece, unless it were in Crete; but there was one thing usual in all Hellenic countries, and that was slavery. I shall therefore commence by briefly stating what was meant in Greece by property in human beings.

II. *Slavery in Greece.*

The Hellenic conception of the respective rights and duties of masters and slaves would not clash in the least with the ideas even now in vogue in Equatorial Africa. Aristotle himself, one of the clearest thinkers of Greek antiquity, considered slavery quite lawful, and made no difference between a man-hunt and the hunting of wild beasts. "The art of war," said he, "is, in a way, by nature the art of gaining property; now the chase is a portion of this art, which we have to employ both against wild beasts and such human beings as are born for subjection but will not submit, so that such warfare is naturally lawful."[1]

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[1] Thucydides, ii. 15.

[2] Plutarch, *Lycurgus*, xxxii.

[3] Aristotle, *Politics*, Book I., ch. ii., sec. 5.

There were, besides, other ways of becoming a slave. A man could, for example, raise a loan by pledging not only his personal liberty, but even his wife's and children's. At Athens, the most civilised and most humane of the Greek cities, the father of a family was deprived of this excessive power only by Solon, and even this legislator allowed him such power over sisters and daughters surprised in unlawful amours.[2]

The Greek master had originally over his slaves the power of life and death, and, as a matter of course, that of sale. In certain rare cases, where the contract of slavery was entered into by mutual agreement, the slave stipulated for protective reservations. Thus the Bœotians delivered themselves up as serfs to the Thessalians on condition that they should not be sold beyond the country of Arnæ, and that no power of life and death should be held over them. On their side they pledged themselves to cultivate the land and to pay a yearly tribute of its produce.[3] At Sparta, the Helots, who in a way were the common property of the free citizens, did farm-work, giving to their masters one-half of the harvests, and living on the remainder, although they outnumbered their owners by five or six times.[4] At Athens the masters often made profit out of their slaves by hiring them out when they had any skill in handicraft. According to Æschines, a slave who knew how to dress leather might bring to his master two obols a day.[5]

The number of slaves in the Greek republics became at last enormous. Within a territory of four square leagues 5000 free Corinthians held in bondage 460,000 slaves.[6] According to Plato, it was usual for a well-to-do Athenian to possess about fifty slaves;[7] and Xenophon declares that several of his fellow-townsmen kept at work in the mines 300, 600, and even 1000 slaves.[8] In the time of Alcibiades there were about 20,000 citizens and 400,000 slaves in

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[1] *Politics*, I., ch. iii., sec. 8.

[2] Plutarch, *Solon*.

[3] Athenæus, vi. 18.

[4] Tyrtæus, frag. 4.—Ælian, iii. 1.

[5] *Oration against Timarchus*.

[6] Athenæus, vi. 19.

[7] *Republic*, ix.

[8] Xenophon, *Revenues of Athens*, 4.

Attica. This feature again calls to mind Equatorial Africa.

It seems, however, that except in Sparta, where the Helots were from time to time thinned out as a precautionary measure, or the youth of the city allowed to practise a bloody warfare upon them, the lot of the slave in the aristocratic republics of Greece finally became mild enough. Nevertheless, the master had the legal right of imprisoning and fettering the slave, of separating him from his wife and forbidding him to marry. At Athens, however, the slave could not be put to death; the Athenians went so far as to grant him a right of refuge in the temple of Theseus,[1] and of summoning his master to justice, if the latter had tried to use him with violence. The free bearing of the Athenian slave, as the outcome of these safeguards, insignificant though they were, very much scandalised Xenophon. "At Athens," says he, "slaves live in an incredible freedom; you are not allowed to strike them. A slave will quarrel with you for precedence!"[2] This exclamation of Xenophon's, and even the nature of the limits laid upon the will and pleasure of the master, say much as to what must have been the early condition of the slave in the little republics of Greece.

The slave always remained a piece of property, of personal property, that could be bought or sold with perfect freedom, which was not allowed, as we shall see, in the case of landed property. Pirates brought to Athens the "barbarians" carried away from Thrace, Caria, or Phrygia, and sold them in the market-place, along with the slaves born of parents already in a state of bondage. The usual price of a slave varied from 300 to 600 drachmæ (the drachma being worth about ninepence),[3] and the traffic in slaves formed an important branch of commerce.

No doubt the artisans in Greece were not identified with the slaves, as the former were free-men; but they were held in contempt, and they were often refused the title of citizen. "The citizens," says Aristotle, "ought not to lead either the lives of mechanics or hucksters; for that kind of life has something base in it, and is contrary to virtue.[4] . . . To them also should all property belong, since it is needful that the husbandmen be either slaves or barbarians or *perioeki* (serfs)."[1] At Thebes a citizen was shut out from the magistracy if he had traded in a retail way, or exercised any craft within a period of less than ten years.[2] In short, the crafts and arts, as has already been said, were usually grouped in guilds, occupying a separate quarter of the town, somewhat as in India. Upon the whole, in ancient Greece the true property, and that held in special esteem, was the land.

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[1] Athenæus, vi. 19. [2] Xenophon, *Government of Athens*, ch. i.

[3] F. Cavalloti, *Alcibiades* (Preface).

[4] Aristotle, *Politics*, VII., ch. ix., sec. 2.

III. *Real Property in Greece.*

At the outset in Greece there existed clans, each having in common their worship, place of burial, and obligation of revenge. Sometimes these clans had also joint treasures and lands, and finally one and the same archon.[3] Besides the fact that the communal system is in every country the natural system of the primitive clan, many other proofs bear witness that this way of holding property was, in the early ages of Greece, extremely widespread. On this head I will call to mind the immense communal lands of the Cretan cities and of Sparta, and the common meals of the latter republic.

Communism was traditional. When the Cnidians and the Rhodians took shelter in the Lipari Isles they cultivated them at first in common; later on the soil was divided, by lot, every twenty years.[4] In so doing they were only reviving ancient customs. To the ownership of the clan succeeded that of the family, and, as a consequence, a first division of the soil. Even in the *Iliad* mention is made of enclosures of fifty acres,[5] and at an early period the flocks were owned by individuals; in every country cattle yield more easily than land to personal appropriation. But the Hellenic family was for a long while modelled after the clan, and, as in China, it had its altar, its worship of ancestral ghosts and of the dead, and a communal burial-place.[1]

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[1] Aristotle, *Politics*, VII., ch. ix., sec. 5.
[2] M. Marigny, *Hist. écon. pol.*, etc., iii. 169.
[3] Grote, *History of Greece*, vol. ii. 430 (4th edition).
[4] Diodorus, v. 9.
[5] L. Morgan, *Ancient Society*, 542.

The pasture lands remained for a long time communal among the families, as is usually the rule, and at first it was everywhere strictly forbidden to sell the soil; to do this was impious; so, too, was the buying of it. In Locris, in order to be able to sell property, the vendor had to prove beforehand that he was in distress.[2] At Sparta it was strictly forbidden for any one to transfer his plot of ground, and whosoever could not bring to the public meals his quota of victuals in the shape of barley and oil, forfeited his rights of citizenship.[3] But these prohibitions in themselves showed clearly enough that, from an early hour, the Greek lawgivers had to struggle against the inclination for private property, only to be overcome by it in the end.

It was apparently by the loan raised on mortgage that the primitive law was shaken and overthrown. This kind of loan was widely and openly practised. At Athens there was fixed upon the mortgaged land or house a notice-pillar or tablet upon which were engraved the names of the creditors and the amount of the debt.[4] The right of borrowing upon lands or the person of the debtor, once allowed, ended in Attica by the mass of the citizens becoming enthralled by the rich, the *Eupatrids*, and by the country's bristling with mortgage-pillars. Out of this arose a situation, more than strained, which necessitated Solon's reforms. This famous legislator forbade the pledging of the debtor's person, or that of his wife or of his children. He reduced to a great extent all debts, decreeing that thenceforth the silver mina should be valued at 100 drachmæ instead of at 73. He even decreed the remission of those debts which carried with them the enthralment of the debtor.[5] He brought back into the country the debtors who had been sold as slaves beyond Attica. Finally, he persuaded the rich to give up all that was owing in the past, and could in his verses congratulate himself on having delivered the earth, the Great Mother, from the odious weight of the mortgage-pillars.

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[1] Meyer et Ardant, *Question agraire*, 39.
[2] Aristotle, *Politics*, Book II., ch. iv. 4.
[3] Plutarch, *Lycurgus*, *Agis*.
[4] Meyer et Ardant, *loc. cit.*, 44.
[5] Diodorus.

It was at that time impossible to prevent the sale of lands, but Solon made it a hard thing to do by dishonouring it, by depriving the seller of his rights as a citizen. He forbade women to bring their husbands any other goods than three robes and a little furniture; he wished, says Plutarch, "that the union between a man and woman should be made for the begetting of offspring, and for pleasure and love, not for money."[1] In conclusion, he decreed the obligation of work; he wished the Areopagus to make inquiries as to the means of existence of the citizens, and to punish the idle ones;[2] he declared that a son should not be obliged to provide for the wants of his aged father if the latter had not taught him a trade.[3] Our theorists of the *laisser-faire* school would call these so many attacks upon individual liberty, but the human individual is of value only through the society of which he forms a part, and the egoistic interests of the bee cannot prevail over those of the swarm. Besides, is it not always seen in critical times of public danger that the greatest individualists lay claim to the social solidarity at which they turned up their noses in the days of peace and prosperity? Man is above all a social animal; that very fact is his claim to existence.

Solon's reform could but have the effects of a palliative. It was inspired by abuses that in themselves were but the results of inequality in wealth. The lawgiver could only mitigate, or dam up, the evils which he was already too late to prevent. He recognised private property, and further, what is still more serious, the right of making wills, up to that time unknown: "For previously this was not allowed, but the property and house of the deceased had to remain with his kindred. He, however, when a man had no children, permitting him to bequeath his property to whom he wished, preferred the tie of friendship to that of kindred, kindly inclination to compulsion, and put those who had goods in full possession of them. Yet he did not suffer legacies to be made without restraint or absolutely, but disallowed them in cases of disordered mind, potions, philtres, imprisonment, constraint by force, or the wiles and allurements of women."[4] But there is nothing more difficult to verify in the law courts than these same "wiles and allurements." Athens seems to have been the first Greek city to get as far as thus giving elbow-room to private property, by which it became possible to transmit it at the will of the owner. Sparta did not follow this example until after the Peloponnesian war.

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[1] Plutarch, *Solon*. [2] *Ibid.* [3] *Ibid.* [4] *Ibid.*

But it was personal property, more especially, that was thus freed. Landed property remained fettered by laws, the requirements of the public treasury, and political organisation. It has been shown that, according to the terms of Solon's laws, no one could sell his lands without losing his rights of citizenship. According to Pollux,[1] whoever had frittered away his patrimony had no right to speak in the public courts. After the law of Solon the land-tax was not only in proportion to the rent, but progressive, and the small landowners were free of taxes. A talent was paid on a valuation of 500 medimni; half a talent on 300; ten minæ on 200, and nothing on any land valued below that.[2] Besides this, the rich were compelled to fill all very costly public offices, those of trierarch, gymnasiarch, choregus, architheorus, etc. A strange law, called *law of exchange*, allowed a citizen, when nominated to fulfil an onerous office, to compel another and wealthier citizen to take his place, or, if the latter refused, to change estates with him.[3] It was not permitted at that time for a wealthy person to live in luxury and idleness, in the midst of a society of workers, without rendering, or troubling himself about rendering, the slightest service to the community. Finally, estates were allowed to be sold only on the payment of a mutation-tax of one per cent., and any one falling into arrears, even for a single day, in his payments due to the public treasury, immediately became debtor for double the amount.[4]

Various laws of detail concerning landed property showed that it must have been in reality but little divided; large trees (olives, figs) could only be planted nine feet away from the neighbouring property; every boundary wall should be built at least a foot from the next estate, and two feet away if it formed part of a house; a ditch had to be as many feet off from the adjacent property as it was deep.[5]

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[1] *Onomasticon*, Book VIII., 45.

[2] Plutarch, *Solon*.

[3] Mesnil-Marigny, *Hist. écon. pol.*, iii. 209.

[4] *Ibid.*, iii. 209-212.

[5] Plutarch, *Solon*.

Now, all these rules would be inapplicable to very small divisions; it must therefore be assumed that for a long while family estates were not broken up. To the same purpose speaks the law which identified a married woman with the landed property that she inherited unexpectedly, so much so as to dissolve her marriage and compel her to become the wife of her nearest relative.

IV. *Personal Property.*

In savage societies personal property was at first made up of tools, weapons, and articles of personal adornment, later on of slaves. In states still uncivilised, but nevertheless a good way ahead of savagery, like the Greek cities, trade and commerce throve and brought forth many exchangeable values, having their equivalent at first in cattle, then in money—that is, in a form of wealth easy to accumulate; but the savage form of property persisted for a very long time. It has been seen that slavery in Greece closely resembled that of tropical Africa, and, like it, was kept up principally by raids at the expense of the "barbarians," by which were meant all people who were not Greek. It was looked upon as sport, or even a kind of glory, to practise piracy against the barbarians, sometimes even against those Greeks who were strangers in the city. When the venerable Nestor offered hospitality to Telemachus, he asked him frankly whether he was a merchant or pirate. "Strangers, who are ye? Whence sail ye over the wet ways? On some trading enterprise, or at adventure do ye rove, even as at random, sea-robbers over the brine, for they wander at hazard of their own lives, bringing bale to alien men?"[1] The wise and virtuous Solon kept up *collegia* for pirates at Athens,[2] and Thucydides declares in suitable terms that formerly piracy was not dishonourable, but quite the contrary.[3] As a rule, to deceive and pillage the stranger were praiseworthy actions in ancient Greece, Homer strongly commending on these counts the maternal

[1] *Odyssey*, iii. c. 65. (Butcher & Lang.)

[2] *Institutes of Gaius.*

[3] Thucydides, Book I., 5.

grandfather of Ulysses, Autolycus, "who outdid all men in thievery and skill in swearing."[1]

That egoistic morality of thine-and-mine is not at all peculiar to the Greek; it is Eskimo, or, speaking more generally, it is primitive morality. But the unfortunate thing is that it should react more or less upon transactions between fellow-citizens, and that it should make them unscrupulous when a period of commercial and industrial speculation is opening out. In Greek mythology, the most intellectual of all mythologies, Hermes was the god both of commerce and theft.

Without enlarging just now upon the commercial morals of the Greeks, I will only say that in this respect they were in no way behind modern nations. Like them they were active, clever, and grasping traders; they invented manufacturing companies with capital held in shares, trading companies, the bill of exchange, insurance even, at least insurance against the escape of slaves.[2] Commerce cannot flourish without manufacture; they were therefore forced to develop the latter. One of Solon's decrees went so far as to grant the rights of citizenship to strangers who came into Attica, to establish there a trade or manufacture.[3] But a new industry must have been meant, because, as a rule, the rights of a citizen were refused to a great many strangers, whose business affairs kept them in Attica, and to whom the significant name of *metoikoi* was given. The Athenians were extremely devoted to their commercial interests; like all barbarous peoples, they were resolute adherents of the protective system, and let loose the dogs of war in the Peloponnesus out of economic motives.

Without speculating in land or mortgages, it was therefore very easy in Greece to amass large fortunes, either by commerce, or by manufacture, or simply by stock-jobbing, since the great stir of business enabled money to be turned to good account. In all ancient states the rate of interest has been excessive, and Greece was no exception. At Athens the minimum rate of interest was 10 per cent.; but it sometimes went up to 36 per cent., 3 per cent. a month. An inscription found at Corcyra proves that the usual rate was 2 per cent. a month, 24 per cent. per annum.[1]

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[1] *Odyssey*, xix. 395.

[2] Mesnil-Marigny, *loc. cit.*, iii. 189-192.

[3] *Ibid.*, iii. 154.

Solon lowered the rate of interest to 18 per cent., and this appears to have been a considerable abatement.[2] Nothing shows up lending on interest more than the Greek moralist's condemnation of it. "Of all methods of acquiring wealth," says Aristotle, "there is none more contrary to nature, because it gives being to a wealth born of money itself."[3] The very name for usury (τόκος, birth) was significant.

The manufacturing movement was very active in Athens. But it is incorrect to liken the condition of the Greek artisan to that of our modern wage-earner. Large industries had not yet been born; there was no excessive labour; days of rest were very frequent. At Athens nearly half the week was set apart for festivals in honour of either some of the divinities or some of the heroes, if not in commemoration of victories. A whole month, *Demetrion*, was called *Hieromenia*, because it was dedicated to joy and pleasure.[4] Nevertheless, manufactures, commerce, speculation produced their usual effects, and pecuniary inequality among the citizens became very marked. Naturally from this there resulted moral and political abuses, which it is needful to set forth clearly.

V. *The Abuses of Property at Athens.*

The abuses of property resulting from the concentration of wealth within a small number of hands had been a crying evil in Solon's time, since they called for his reform. But if the reformer himself is to be believed, it must be admitted that the legal dyke, laboriously constructed by him, did not long confine the ravening flood of individual greed. The poems of Solon are full of lamentable revelations. It would be difficult for any one to confess more frankly that he had been nursing too generous illusions, that his knowledge of the evil sides of human nature was but scant, that he had counted too much on personal influence; in short, that he had failed miserably. "The ambition of the rich knows no bounds; the most wealthy wish to grow yet more so. Who may be able to assuage this insatiable greed! . . . They respect neither sacred property nor public treasure; they plunder all in defiance of the holy laws of justice. . . By my laws I had given equal powers to all citizens; I had taken nothing away, nor yet had I added aught to any one; I had commanded the wealthiest and most powerful to refrain from harming the weak; I had protected great and humble with a double buckler, equally strong both sides, without giving more to one than to the other. My advice has been disdained. To-day they are punished for it."[1] The Athenian lawgiver is not alone in his complainings. Throughout all Greek literature there is a chorus of lamentation. "The rich man," says Alcæus, "is a great man, and he that is poor a wretch of no account."[2] Anacreon cries—

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[1] Mesnil-Marigny, *loc. cit.*, iii. 260, 261.

[2] *Ibid.*, 194, 195.

[3] *Politics*, Book I., ch. xvi. 23.

[4] Mesnil-Marigny, *loc. cit.*, iii. 57.

> "Love cares no jot for birth,
> And of wisdom he makes mirth,
> He only looks for gold.
> A thousand plagues befall
> Who first was money's thrall
> In better days of old.
> He robs us of our brothers,
> And our fathers and our mothers,
> The world with blood he covers;
> But O, far worse than all,
> He's the death of us poor lovers."[3]

And Euripides says, "O beloved gold! germ sprung from earth, with what love dost thou enkindle mortals! . . . The earth, the seas, the god of war who quelleth all things, follow and obey thee."[4] In his oration against Midias Demosthenes joins in the chorus of poets: "I will tell you, Athenians! We other poor citizens do not enjoy the same rights and privileges as the rich. No! we do not enjoy them." And as a fact, in this affair the great orator was not able to obtain judgment against his adversary, the wealthy Midias, notwithstanding his having been struck by him whilst officiating as choregus. But a brief glance at the history of Greece will be of more value than all these quotations, which, after all, are commonplaces, since they merely state sad truths that every day stare us in the face.

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[1] *Poems of Solon*, frag. 13, ll. 71-73; frag. 4, ll. 11-14; frag. 5 (Bergk, 4th edition)

[2] Alcæus, vi.

[3] Anacreon (*Pseudo*), Ode xlvi.

[4] Euripides, *Bellerophon*.

After Solon, the economic organisation of the Athenian family closely resembled that of the Chinese. The inheritance might be divided among the male children, and the paternal house fell by prior agreement to the share of the eldest.[1] But from this time private property was established, with its advantages and inconveniences. Competition, over-stimulated by the lust for money, had its usual effects. Solon had declared against setting up any limit to wealth, provided that it accrued from labour,[2] but it is not easy to define exactly what is meant by "labour." The ancients, as we have seen, did not distinguish between lending on interest and the usurious loan, and in all ancient societies the rate on money lent was enormous. Although branded by both philosophers and poets, usury, nevertheless, made its way throughout Greece, and by the help of maritime trade financial oligarchies grew out of it. In the time of Agis III. Laconia was the property of one hundred persons.[3] According to Aristotle, the population there was divided into two classes of very unequal numbers, the rich and the poor; all wealth being centred in the hands of a few individuals. Everywhere in Greece plutocracy held sway, and all at once Hellenic patriotism, that formerly had been so fiercely keen, disappeared. The preservation of their wealth became the chief care of the ruling classes, who nearly always made common cause with the foreign invaders. During the Peloponnesian war the populace took the part of the Athenians, the rich that of the Spartans. Likewise, during the Macedonian invasion, the rich—the "optimates"—were in favour of Philip of Macedon. Finally, later on, when the Roman legions appeared, the aristocrats again made terms with the invaders.[4]

To this weakening of patriotism, which naturally brought about the ruin of Greece, must be added numerous internal revolutions, popular risings, followed by the forced abolition of debts, the confiscation and division of lands, and massacres of the rich. Events such as these took place at Rhodes in 355, at Megara in 410, at Messenia in 411, at Samos in 412, etc.[1] Athens is a typical example. In early Attica every citizen paid with his person; it was the strict duty of the humblest and noblest alike to risk their lives upon the battlefield in defence of the fatherland. But when Athens grew rich through commerce, manly vigour grew weak, the wealthy citizen voluntarily separated his private interests from those of the city; the armies were made up more and more of mercenaries. In the end the population, hitherto so wondrously dense, diminished, the area of cultivation became more and more restricted, a great many towns disappeared, and there was a dearth of men for both labour and war.[2] The same thing went on more or less everywhere, and finally Greece lost her political independence. Doubtless the progress of individualism was not the only cause of this political downfall. All great historic events are the result of complex influences, but the destruction of the ancient solidarity which, impressed deeply upon customs and sanctioned by law, had made each Greek state a single and compact organism, was certainly the principal factor in this. It will not therefore be without profit to sum up what we know concerning communal property in ancient Greece.

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[1] Meyer et Ardant, *Question agraire*, 47.

[2] *Ibid.*

[3] Plutarch, *Agis.*

[4] Meyer et Ardant, *Question agraire*, 49-53.

VI. *Communal Property in Greece.*

Without depending on induction, or going as far back as the beginning, but only to mention well-established facts, communal survivals and doctrines are not wanting in the history and literature of Greece. In the first place, the example of Sparta, reformed in the communal direction by Lycurgus, must be quoted. Ordinary evolution and the division of property had brought about the extremes of inequality among the citizens of Lacedæmon: "Some were so poor that they had not an inch of land, and others, of whom there were but few, so wealthy that they possessed

[1] Meyer et Ardant, *Question agraire*, 49, 50.

[2] *Ibid.*, 54.

all." Lycurgus persuaded the citizens to restore the land to common use, and divided Laconia into 30,000 equal parts, one for each household. Each lot produced, taking the good with the bad years, 82 medimni of barley—70 for the man, 12 for the woman; also wine and various other crops. Now the medimnus equalled one and a half bushels.[1] Plutarch tells of the joy that Lycurgus felt after the establishment of the new communistic order of things, when on seeing the countryside before him at harvest-time, it seemed to him that Laconia was an inheritance divided among brothers.[2] But for such a reform to be possible it is necessary to have to deal with a people already impregnated with communal ideas and customs. A Lycurgus interfering with our modern states would be a thing difficult to imagine, and it is pretty certain that the Spartan lawgiver was only going back to the custom of allotments, of which all memory had not been lost.

The institution of common tables, which was established at the same time in Sparta, and with ease, may be looked upon as a revival of the communal life of the primitive clans. These meals were initiated by small groups of fifteen persons, recruiting themselves and having each of them its own hall. Each messmate was bound to contribute, every month, his share by bringing to the common store a medimnus of flour, 28 pints of wine (one for each day of the lunar month), 5 lbs. of cheese, 2½ lbs. of figs, also some money "wherewith to purchase some of the allowance."[3] To take part at this meal was strictly insisted on. It was absolutely forbidden "to fatten like voracious animals in private." The communal table was resisted most of all; it offended the rich, and cost Lycurgus an eye, which was knocked out by a young malcontent named Alkander. But whether they liked or not they had to submit to it, and kings themselves were compelled to obey. Thus, when King Agis returned from a victorious expedition against the Athenians, he could not obtain permission to sup at home with his wife, and the next day, having through resentment neglected to offer the customary sacrifice, he was condemned to a fine by the Polemarchs.[4]

But these communal institutions were not peculiar to

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[1] Plutarch, *Lycurgus*. [2] *Ibid.* [3] *Ibid.* [4] *Ibid.*

Sparta, since they were copied from those of the Cretans. The latter had their communal meals, their *andria*, organised in groups of messmates, in *hetairiæ* of heads of families, who contributed individually to the collective consumption. The care of preparing these meals was entrusted to a woman, assisted by three or four public slaves. The young folk and children were present at the communal repasts, but received smaller portions. On these occasions honour was shown to individual merit, and the woman who had directed the preparation of the meal chose the most delicate morsels, and caused them to be served to the guests who were famed for their courage in battle or for their wisdom in council.[1]

At Lacedæmon the 30,000 original allotments would not have long sufficed for the needs of the population, but conquests during four or five centuries allowed of the distribution of new lots. No one, therefore, had much to complain of; on the contrary, the people led an existence that was simple, no doubt, since the cumbrous money of Sparta banished luxurious arts, but at the same time happy and even gay. "The time they were not engaged in war was passed in dancing, feasting, hunting, or meeting to exercise or converse."[2]

Much sociability was gained thereby, and became an innate quality. "He [Lycurgus] accustomed his citizens neither to wish nor to be able to live alone; they were thus, as it were, linked and incorporated the one with the other, and always assembled together like bees."[3] Solon's reforms were much less radical than were those of Lycurgus, contrary to the desire of the Athenian proletarians, who aspired to a more thorough reform.[4] Thus Athens, more readily weakened than her rival, in the end sank before Sparta in the struggle for a political existence. Nevertheless, Athenian legislation was more widely concerned with the condition of the greatest number, and its protective measures were of a beneficent nature.

Poor maidens were dowered; wheat and oil freely distributed, or sold at a low price; whilst every day there were free spectacles. The flesh of the animals, sheep, goats, calves, oxen, etc., sacrificed in the temples, was divided among the proletarians, and in such great quantities that in the fourth century B.C. their skins alone were annually sold at twenty-four talents.[1] From time to time efforts were made to bridle the luxury of the rich by sumptuary laws. The spendthrift was excluded from the *bema*;[2] a fine of 1000 drachmas was decreed, at the request of the orator Lycurgus, against every Athenian lady who, on the day of the mysteries of Ceres, went to Eleusis in a chariot;[3] it was forbidden to sacrifice an ox on the tomb of the deceased, etc. Nor had the right of eminent domain lapsed. For a long while, in order to be master of a field, it was not enough to enclose it; it had to be actually tilled. Later on limitation, usucaption, was allowed for real estate at the end of five years; for personal property, at the end of one year.[4] Finally, exile ordinarily implied confiscation of property, save in the case of ostracism, which was only a temporary exile for from five to ten years.

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[1] Athenæus, *Deipnosophistæ*, iv.

[2] Plutarch, *Lycurgus*.

[3] *Ibid.*

[4] *Ibid.*, *Solon*.

Greek laws and customs were, therefore, strongly imbued with the spirit of solidarity, which, furthermore, is often shown by expressions of a lofty character in the writings of the philosophers. "Which is the most civilised city?" Solon was asked. "That," said he, "wherein those who are not harmed keenly pursue after the reparation of an injury to another, as if they themselves had received it."[5]

Under another form Plato expresses the same thought when he says in his *Republic*: "In a well-ordered state, when any one of the citizens experiences any good or evil, the whole state will make his case their own, and either rejoice or sorrow with him."[6] To conclude I shall again quote Aristotle, who, though little given to sentimentality, defines society both justly and humanely as follows:—"Civil society has for its aim an alliance offensive and defensive, designed to shelter each individual from injustice."[7]

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[1] Mesnil-Marigny, *Hist. écon. pol.*, iii. 214.
[2] Pollux, *Onomasticon*, Book VIII., 45.
[3] Demosthenes, *Pro Phormione*.
[4] Plutarch, *Solon*.
[5] *Ibid.*
[6] Plato, *Republic*, v. 462. (Jowett.)
[7] *Politics*, III., ch. v.

As my aim is not to make a detailed study of property among the Hellenes, but only to set forth briefly the phases through which it has passed, I may here limit my research, and end this chapter by a general account of the development of the system of property in ancient Greece.

VII. *Evolution of Property in Greece.*

In the course of our lengthened investigation concerning the entire human race we have been able to note and even classify various forms of the right of property. More often we have had to confine ourselves to verifying and describing social states, the origins of which were little or not at all known to us. Touching races relatively more civilised, however, it has been possible, by the aid of comparisons and analogies, often by induction, to indicate with sufficient probability the process of the early stages of development. In the Hellenic period we see for the first time unrolled before our eyes the phases of a historic development agreeing with the general views derived from the collection of facts.

Among peoples who have a history, what still remains most obscure are the early beginnings. To this Greece is no exception, but enough indications, relics of her prehistoric past, survive in her historic period to permit us to assert that, conformably with a general law of social development, she began with the communal clan phase, and that in proportion to the development of the family the lands of the clan were divided into family estates. Henceforward the development becomes historic, and we can follow it up to forms which may be termed modern. In fact, allowance being made for differences of detail peculiar to race and country, the last stage of property in Greece seems to have served as the model for contemporary Europe. This conformity is of great importance, both theoretically and practically. Joined with numerous other facts, it suggests that human aggregations develop according to a common law; it points out to us also the shoal upon which so-called civilised societies may be wrecked. Now the shoal in Greece has been the free scope given to individualism, out of which arose the reign of money—in a word, plutocracy.

From the earliest times of Greek history we look on at the conflict between riches and poverty, or, in modern terms, capital and labour. The oppression exercised by the former over the latter made the reforms of Solon and Lycurgus both necessary and possible. At Athens the evil was already so great, evolution in the individualistic sense so advanced, that the legislator had to confine himself to palliatives, such as the reduction or remission of debts, proportional taxation, compulsion of the rich to accept expensive public offices, obstacles placed in the way of the conveyance of landed property, etc. He did not dare to abolish the right of bequest. At Sparta, which was still closely bordering on primitive civilisation, Lycurgus was able to restore intact the collective system with its allotments and communal meals. To this condition of things Sparta owed her political greatness, her strength, and in the end her predominance. But we know that when once the ephor Epitadeus granted the right of bequest there immediately followed pecuniary inequality, an industrial proletariat, the destruction of patriotic sentiment among the disinherited, etc. In vain did Agis and Cleomenes later on sacrifice themselves in striving to restore the old order of things.[1]

It was much worse at Athens, a maritime city of commerce and manufacture, a kind of Hellenic England, where stock-jobbing, usury, and financial speculation were rampant; where the body social was divided into two inimical classes—a minority having in their grasp the greater part of the capital, which it was their constant anxiety to increase, and a proletarian populace, of necessity hostile to the moneyed aristocracy. The sequel is known. Character became demoralised; the ancient and heroic ancestral virtues faded away; the ruling classes subordinated the city's interests to those of their strong boxes; Philip came on the scene unexpectedly. There always comes a Philip to subjugate degenerate Athenians. Then to the brilliant flash of Alexander's conquests succeeded political despotism, and in the end Greece, the glorious, became only a Roman province.

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[1] Plutarch, *Agis and Cleomenes.*

Throughout this history there exists a chain of causes and effects naturally suggestive of more than one wholesome reflection. The study of property in Rome, to be approached in the next chapter, will suggest others of a like nature.

CHAPTER XV.

PROPERTY IN ANCIENT ROME.

I. *The Early Ages of Rome.*—Origins—Husbandry and cattle-raising—Communal lands—Family property—The *ager publicus*—The *gens*—Rights of the *pater familias*—War brings wealth—Sociological analogies.

II. *The Law of the Twelve Tables.*—The rule of custom—Origin of the Law of the Twelve Tables—The father as owner of the family—The *potestas*—The *peculium*—Property through possession—Private property in real estate—The exorbitant rights of creditors in Rome, Kabylia, and Judæa—Mortgage—Legal methods of gain—*Res mancipi et nec mancipi*—Mancipation—Right of testation—Its development in Rome—The *familiæ emptor.*

III. *Development of the Right of Property in Rome.*—The Law of the Twelve Tables and the edicts of the prætor—Progressive mobilisation of the soil—Weakening of the *patria potestas*—Moral consequences of the right of testation—Its limitation—The dowry enforced—The property of women—The *latifundia*—Licinian rogations—Tiberius Gracchus—The slave ousts the free-worker—Depopulation—Laws decreed by the Byzantine emperors—Families attached to the soil—Barbarian *coloni.*

IV. *Slavery in Rome.*—The slave in early Rome—Conquests and slavery—The slave as a chattel—Expropriation of small landowners—Servile cultivation—The *servi adscripti*—The serf as sub-tenant or *colonus*—Position of the *colonus*—The *Emphyteuta.*

V. *The Cause of Rome's Downfall.*—Why the first Romans were patriots—Wane of patriotism—Its causes.

I. *The Early Ages of Rome.*

If all the works written upon Roman law by legists, commentators, glossologists, etc., were put together, they would form a very large library. Not a line, not a word of these old texts but has been studied and weighed. The majority, however, of these learned works have been written exclusively from the legal point of view, or with an erudite bias, but above all, and almost invariably, with the notion that Roman law is unique, without precedents or connections. In studying the development of property quite another standpoint must be taken, mine being the sociologist's, not the legist's trade. Without making a foolish pretence of recounting, in a few pages, the complete history of property in Rome, I will confine myself to pointing out briefly the chief phases of its development, and especially to showing its connection with facts of the same kind noticed or noticeable in other countries, and among other races. Handled in this way, the study of property in Rome reveals other attractions; it assumes an aspect to some extent novel, and Quiritarian legislation loses the exceptional character which quite wrongly has been accorded it. Once more, we see that diverse peoples, of no matter what race, go through a rather similar sociological development, and that the manners and customs of China, for instance, are able to throw some light upon the social life of early Rome. What was the original condition of the inhabitants of Latium? We do not know, and can only form conjectures on the subject. Roman traditions and legends preserve the memory of a savage age which has left no trace in history. At the most remote period to which investigations of any kind can lead us the early Romans were grouped in barbarous clans, tillers of the soil, but even then occupied in raising cattle, the best form of exchangeable value, which had to be used as money, even as it is to this day in Negro Africa; for one of the first Roman coins was called *vacca*, and the word *pecunia* evidently comes from *pecus*. "Since arable land among the Romans," says Mommsen, "was long cultivated upon the system of joint possession, and was not distributed until a comparatively late age, the idea of property was primarily associated not with immovable estate, but with 'estate in slaves and cattle' (*familia pecuniaque*)."

At the outset of Roman history the tribal lands were already parcelled out into family properties, and the families were grouped in clans, of which all the members were supposed to have descended from a common ancestor.[1]

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[1] E. de Laveleye, *De la Propriété*, 148.

Each family had its *heredium*, of about two *jugera*, also a claim upon the undivided property of the clan or of the city. In the beginning, the use of the communal pasture-lands and of the State lands was a privilege attached to the mere right of citizenship. Later on this became a prerogative monopolised by the patricians, the *optimum jus civis*, the small landowners being excluded from it.[1] The common land of the city was the *ager publicus*, and it was greatly enlarged by the conquests of the kings and the republic. Between the several families that made up a *gens* the tie of kinship was still considered to be rather close, for in default of heirs more nearly related the *gentilis* succeeded; a certain index to a former period when property was common to the entire kindred clan.

At the beginning of the historic age the family had completely emerged from the clan, and that certainly for a long time, because the Roman family is the perfect type of the patriarchal family. The *pater familias* was something more than master; he was the proprietor of the members of his family, of wife, children, and slaves; but, nevertheless, the family estate was inalienable. The father, priest and magistrate at the same time, was but the usufructor and administrator of an inalienable estate. The inheritance was transmitted from male to male without division.[2] Even when the sale of land became permissible by law it was still difficult, and was surrounded by troublesome formalities. Real estate was seldom even let, and for long enough no legal distinction was made between hire and sale, the *emptio venditio* and the *locatio conductio:* letting being looked upon as a temporary sale.[3] In early Rome wealth could only be obtained by force of arms. A successful war procured lands for the *ager publicus*, and estates, cattle, and slaves for private individuals. Wealth thus acquired by the sword was considered as specially honourable: "The property most lawful in the eyes of our ancestors," said Gaius, "was that which they had acquired in war."[4]

In this Roman system, not strictly primitive, but extremely ancient, however, there is for us nothing very original.

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[1] Meyer et Ardant, *Question agraire*, 62.

[2] *Ibid.*, 59, 60.

[3] Maine, *Village Communities*, 188-190.

[4] Domenget, *Institutes de Gaius*.

These patriarchal families, settled on an undivided and inalienable estate, are indeed met with elsewhere. It is certain, too, that elsewhere the father has been the priest of the family, that is to say, he was, as a matter of course, entrusted with the office of sacrificing, in the name of the little group of which he was chief, to the divinities whose kindly protection was desired. Under various names, the *manes* of ancient Rome are far from being unusual among other people. As to the common tomb in a corner of the family estate, accounted peculiarly sacred, there is nothing exceptional about it. We have seen that in China this custom is kept intact up to the present day. The unlimited power of the father over all the members of his family is also usual in many barbarous or savage countries where paternal affiliation is adopted. Likewise the right of sale, of life and death, over the wife and children, placed on a level with slaves, exists in nearly every savage country. What is peculiar to very ancient Rome is the persistence of this outrageous power up to a stage of civilisation by which it is usually lessened.

To enable us to form a just notion of the social organisation and the condition of property in prehistoric Rome, we have only had to put together indisputable facts, and to draw from them some sociological inductions, perfectly allowable after our already numerous preceding inquiries bearing upon a large portion of mankind. But those manners and customs, somewhat modified, ended by being merged in the Law of the Twelve Tables, wherein we find information, this time absolutely authentic and even detailed, concerning the system of property in ancient Rome. We are, therefore, bound to dwell on it for a time.

II. *The Law of the Twelve Tables.*

Like all other peoples, the early Romans had lived long without any other law than that of traditional custom, the *adat* of the Malays. About 450 B.C. the Roman senate, fired with great zeal, sent to Greece a commission to study the laws of Solon, and to draw up afterwards a written code. Then this code was offered to the three classes for acceptance, and acquired the force of law. By this fact Roman legislation became secular and even progressive; it was no longer looked on as a collection of immutable precepts, as binding even as religion. But in primitive societies, anchylosed by traditions, changes are effected only with extreme difficulty, therefore the Law of the Twelve Tables held sway over the Romans for a very long time.

In the Athens of Solon, the right of private property was recognised, but in reality landed property was chiefly of a family kind. It was so even in Rome, where we see the father of a family as pre-eminently the owner. Owing to the craze for law and order which blinds our men of letters whenever ancient Rome is in question, the Roman *pater familias* has been made into a sort of august personage. He was only a petty despot keeping up over his household the exorbitant rights that the fathers of families in savage societies arrogate to themselves. The Roman father was proprietor not only of the family estate, but of all those who lived on it—wife, children, and slaves. In another work I have spoken of the marital *manus* to which the wife was subject. The sons, like their mother, were only part of the Roman family with the rights of slaves; they were chattels. Table IV. granted to the father the right of casting his children into prison, of flogging them, of forcing them to do rough work in chains, of selling or of killing them, even when they were vested with the highest offices of the Republic (Provision 2). However, Provision 3 of the same table decreed that the son should be freed from the paternal *potestas* when he had been sold three times.[1] In the Roman family the son has no personality. If emancipated, he ceased to belong to the family, and is disinherited, whilst, on the contrary, the adopted son acquires all the rights of the son by blood. Should the son commit any wrong to the hurt of a third person, he is no more responsible for it than a slave; it is the proprietary father who takes the place of his offspring, but he has the right of compensating for the injury done, by giving *in mancipio* the son who had done the mischief, as he would a slave.[2] Even this paternal *potestas*, as I have already

[1] Ortolan, *Hist. leg. rom.*

[2] Cubain, *Lois civiles de Rome*, 133.

said, is not peculiar to Rome. Under the Antonines Gaius discovered it among the Galatæ, and we have met with it among a great number of people. Rome's originality was in having codified it.

The Roman sons and slaves, being owned as chattels, owned nothing themselves. They were allowed, however, to keep to themselves a certain property made up of chance gains, the results of thrift.[1] This property on sufferance was called *peculium*, and the name was afterwards extended to all acquisitions free from the paternal authority; there was the *castrense peculium* of the soldiers; the *quasi castrense peculium* of the civil officers. The *peculium castrense* was chiefly formed by the movables taken from the enemy, because immovable spoils came to the State. It was these same conquered lands which formed the *ager publicus*. The estates of vanquished kings were confiscated in preference, and their forests and pasture-lands became communal. The arable lands of the royal estates were either sold for the benefit of the treasury or assigned to needy citizens. A long while ago, says Appian, the senate granted the possession of unprofitable and waste lands belonging to the State to those who undertook to clear them. This was what was called the property of *possession*, and the occupant paid to the treasury a periodic rent, the *vectigal*.[2] Servius Tullius gave some of the lands taken from the enemy to the plebeians, outcasts, and refugees; he recognised their right of property and civil existence. This was a serious blow to the ancient family community, because the right of property was vested in the person of the father, and later on this was sanctioned by the Law of the Twelve Tables.[3] From the promulgation of the Twelve Tables, therefore, private property in immovables was established. Every citizen had the right of selling his lands, and also that of making a will. Land could be divided and monopolised.[4]

Henceforth the inequality of wealth became more pronounced, and at the same time the creditor was allowed excessive claims upon the person and goods of his debtor. On this matter the Law of the Twelve Tables is the most

[1] Maine, *Ancient Law*, 142.

[2] Meyer et Ardant, *Question agraire*, 79.

[3] *Ibid.*

[4] *Ibid.*, 63.

savage that has ever been enacted.[1] If, after the legal delay of thirty days, says the text, the debtor has not paid, or has not found any *vindex*, security, "the creditor may take him to his house, he may bind him with thongs or with fetters, of which the weight shall not exceed 15 lbs., if he so wills." (Table III., Provision 3.)

"That he (the debtor) may be free to live at his own cost; if not, that the creditor should allow him, each day, 1 lb. of flour or more, if he so wills." (Provision 6.)

"After the third market-day (*Tertiis nundinis*) that they (the creditors) may divide him in pieces among themselves; if they shall have cut more or less, let it not be charged against them."[2] The creditor might also, *a fortiori*, either put the insolvent creditor to death, or sell him to the stranger—that is, beyond the Tiber (Provision 9), because a Roman citizen might not be sold on the sacred soil of Rome. The insolvent debtor was handed over to his creditor (*Jure addicitur*); he became, in fact, a slave.[3] The creditor could naturally compel him to work until payment was complete; lastly, the security was conjointly liable, and the creditor could choose between the debtor and his bail.[4]

From these barbarous practices we derive our legal phrases, *distraint*, *arrest*, *bodily attachment*, figurative expressions now, but for a long time understood literally at Rome. Such customs were not, however, peculiar to ancient Rome. In nearly every country, during the lower stages of civilisation, the insolvent debtor, by becoming the property of his creditor, may be reduced to slavery, and everywhere the master has the power of life and death over his slave. And it is thus not only among savages, but even among barbarians. Among the Kabyles, for instance, the creditor sometimes seizes upon the son of the insolvent debtor in order to compel the latter to sell off.[5] Of another place we read in the Bible the following verse, put into the mouth of a woman speaking to Elisha :—"Thy servant my husband is dead , and thou knowest that thy servant did fear the Lord : and the creditor is come to take unto him my two sons to be bondmen."[1] Again on this point, ancient Rome only gave the power of law to barbaric customs previously in force.

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[1] Ortolan, *Hist. leg. rom.*, 87.

[2] This is, however, disputed, the division being said to relate to the debtor's substance, not to his body.

[3] Cubain, *Lois civiles de Rome*, 129.

[4] Duruy, Filon, etc., *L'Italie*, 502.

[5] Hanoteau et Letourneux, *La Kabylie*, 356.

At the outset the debtor, in borrowing, actually transferred his property to the creditor, with, however, an agreement for *redemption ;* but later the civil law left the property in the hands of the debtor, only granting possession to the creditor. Such an agreement implied for the lender the power of selling in the event of non-payment.[2]

Even to this day, in Kabylia, the lender on a mortgage takes possession of his pledge for several days, in order to make good his right as creditor in the eyes of all.[3] It is hardly necessary to insist upon the importance of these ethnic analogies for general sociology.

The legal methods of acquiring property give us clear enough information concerning the origin of private property in early Rome. The use of unowned things, or wealth seized from the enemy, must have been the first form of it. The name alone of property in the highest sense is enough to prove this. It is *Quiritarian* property, the property of the *quirites*, that is, of the spearmen, since the spear was its symbol.[4] It was very natural that the private appropriation of these Quiritarian possessions, which no other citizen was authorised to claim, implied for the occupant or captor a right of absolute ownership, and in fact the *dominium quiritarium* conferred the right of use and abuse, the famous *jus utendi et abutendi*. On the contrary, the property called *in bonis* gave neither the right to dispose of the thing possessed nor that of claiming it, but only the right of usufruct. Roman citizens alone were entitled to property in the highest sense, to Quiritarian property.[5] But soon the Quiritarian right to property could be acquired otherwise than by spear or occupation. There were several ways of being raised to the dignity of Quiritarian proprietor: 1, the law of testation; 2, continuous possession during a certain time, and this had different names, *usus*, *auctoritas*, *usucapio*; 3, the *in jure cessio*, or more generally the magisterial declaration;[1] 4, the *emptio sub coronâ*. or purchase of the spoils of war; 5, and lastly, the *mancipatio*, or conveyance by weight and scales, *per aes et libram*. I have kept this mode of acquisition to the last, because, without in the least pretending to write a technical chapter on property according to Roman law, I could not make the subject intelligible without at least defining the *res mancipi* and the *res nec mancipi*.

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[1] 2 Kings, iv. 1.

[2] Meyer et Ardant, *Question agraire*, 77.

[3] Hanoteau et Letourneux, *Kabylie*, ii. 530.

[4] Ortolan, *Hist. leg. rom.*, 118.

[5] Domenget, *Institutes de Gaius*, 129.

The etymology of the word *mancipi*—*manu capere*, literally, what the hand can take—is plain and reveals much. The expression truly seems to show that in Rome primitive private property was applied, just as among the savages of whom I have spoken in the first part of this book, only to movable objects, and at most to slaves and cattle (*capitale*, head of cattle, whence *chattel* and *capital*; *pecus*, whence *pecunia*). When the clans of prehistoric Rome became agriculturists and, above all, conquerors, the land was put on the same footing as *res mancipi*. Ulpian enumerates the *res mancipi* in the following order:—1, landed or real estates upon Italian soil; 2 the servitude of rural immovables in Italy (rights of way and right of passage for water, etc.); 3, slaves and beasts of burden[2] (oxen chiefly), agricultural implements. Everything else was *nec mancipi*. The list of goods *nec mancipi* was therefore indeterminate and open; but it was not so with that of the *res mancipi*, which was close and looked upon as constituting a superior kind of property. In early times it comprised for the Quiritarian *pater familias*, the entire *familia*, to wit, the field, house, rural slaves, wife, children, men subject to his power, and the domestic animals, without distinction.[3] The things *nec mancipi* could be transferred without ceremony, by *traditio*; but in the case of the others, a formal method, the *mancipation*, had to be used. *Usucapio* was not at first applied to these pre-eminent forms of property.

Mancipation was evidently a relic of a far-off period, when writing was as yet unknown. and when money was represented by metal ingots of varying weights. Sale by mancipation was a solemn business; it was effected in the presence of seven persons; five witnesses, no doubt representative of the five classes established by Servius Tullius, the man whose office was to hold the scales, the *libripens*, and, lastly, a seventh, the *antetestatus*, whose part is not yet clearly defined. As with all ceremonies of this kind, the process became simplified and symbolic. At first the price of the thing sold was really weighed; the buyer struck the brazen scales with the money, and said: "This man, these goods, etc., I declare to be mine, *ex jure Quiritium*;[1] I have bought it with this brass and these scales of brass."[2] The slaves, animals, etc., ought to be actually present, and be literally *seized* by the purchaser. At an early period this formula was not required for fields.[3] Then it came to be enough to put, for form's sake, a small piece of copper or an *as* in one side of the scales.[4] Later still the weighing was taken as done, the ingots as given, and the words detached from the ceremony were alone preserved and reduced to a solemn question (*Sponsio*, *stipulatio*) followed by a promise in proper form; sometimes even a simple entry in the domestic registers sufficed. This entry stated in set terms that the metal was held as being weighed and given.[5]

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[1] Ortolan, *loc. cit.*, 118.

[2] Ulpian, Rule XIX.

[3] Ortolan, *loc. cit.*, 121.

All this ceremonial of mancipation became for Roman citizens the usual form for contracts. The Quiritarian solemnity was used for wills, trusts and pledges.[6]

The will has played an important part in the social life of historic Rome; it is, therefore, necessary to give here on this subject some details which would not fit so well in the chapter on inheritance. Later on I shall have to deal generally with will-making, to define its origin, and to estimate its utility. Just now Rome alone concerns us. The right of testation was certainly prior to the Law of the Twelve Tables, which only legalised it; but it had not at first the sphere which later on was attributed

[1] Cubain, *Lois civiles de Rome*, etc., 132.
[2] Domenget, *Institutes de Gaius*, p. 67.
[3] *Ibid.*, 68. [4] Duruy, etc., *L'Italie*, 494.
[5] Ortolan, *loc. cit.*, 122. [6] *Ibid.*

to it. The Law of the Twelve Tables authorised the unrestricted will on condition that the testator had neither children nor near relations.[1] Otherwise the testator could not make a bequest;[2] for a will was not then a means of dividing the family estate; it was only used to regulate private affairs connected with it, to provide better for the fate of the members of the family than the usual regulations of a succession *ab intestato* would have been able to do.[3]

In default of a will, if there were not necessary or co-proprietary heirs, or *heredes sui*, the nearest *agnatus* took the succession (Table V., Prov. 4); failing agnates, it was the *gentilis* who succeeded (Table V., Prov. 5).

With the foregoing restrictions, the right of testation was fully recognised by the Twelve Tables: *uti legassit super pecunia tutelave suae rei, ita jus esto.* "As the father of the family shall have decided by legacy concerning his capital and the guardianship of those related to him, so let that be the law." (Table V., Prov. 3.)[4] This right of testation was at first attributed only to heads of families;[5] it slid by degrees on the downward path. At the outset, Roman wills took effect as soon as they were made, and they were neither secret nor revocable.[6] They were made either before the assembled *comitia* or before the army. In the end a more complete form of will was introduced: transfers between living people, total and irrevocable alienation of the family and of the possessions of the testator to the advantage of an appointed heir.[7]

A will might be oral, provided it was made in the presence of seven witnesses,[8] who were evidently the seven persons required at the mancipation, and, in fact, the will was often made *per aes et libram*, like an ordinary sale. The purchaser of the family, the *familiæ emptor*, struck, according to custom, the scales with a piece of money; the testator ratified the terms of his will by a verbal formula (*nuncupatio*), and the heir was forthwith put in possession of his inheritance, with all its rights, burdens, and obligations.[9]

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[1] Maine, *Ancient Law*, 198.

[2] *Ibid.*

[3] *Ibid.*, 195.

[4] Ortolan, *Hist. leg. rom.*, 39.

[5] Domenget, *Institutes de Gaius*, 189.

[6] Maine, *Ancient Law*, 206.

[7] *Ibid.*, 209.

[8] Domenget, *Institutes de Gaius*, 185.

[9] Maine, *Ancient Law*, 210.

I am obliged to limit myself here to these brief data concerning property according to the Twelve Tables; for now it remains to be shown through what subsequent phases the right of property passed in ancient Rome.

III. *Development of the Right of Property in Rome.*

The legislation of the Twelve Tables relating to property was clearly based on the despotism of the father, as owner of the family, and upon the distinction between *res mancipi* and *nec mancipi*. It is barbaric in its strictness, and so long as custom forbade the division of family estates, it had to keep up as nearly as might be the *status quo* in the division of property possessed in former times. But individualism always tends to react against collective restrictions, whatsoever they may be. This simplified legislation was badly fitted for many special cases; the edicts of the prætor therefore undermined it constantly.[1] The early distinction between things *mancipi* and *nec mancipi* was clearly only practicable in a state of civilisation still very simple and chiefly agricultural. As Sir H. Maine remarks, the history of Roman property is at bottom that of the gradual assimilation of *res mancipi* to *res nec mancipi*,[2] that is, in substance, the history of the progressive mobilisation of landed estates, of their assimilation to private movable property. The jurisprudence of the prætor, the *equitas* and *jus gentium*, ended by confusing the two early forms of property, and also the difference between *agnati* and *cognati*.[3] The *patria potestas* by degrees grew weaker. It began with granting the son the right to hold all the wealth he might acquire by military service.[4] Justinian added to this the wealth acquired as an official,[5] and decided that if the acquisitions of the child did not proceed from the paternal estates, the father should not have over them any other right than that of usufruct during life.[6]

The excessive power allowed to the testator, head of a family, by the Law of the Twelve Tables, would have in itself sufficed to ruin the old order of things. Cupidity and low greed could not but be excited by offering them such prizes to be gained. It speedily had therefore the effect of creating in Rome a class of legacy-hunters, whose race is far from being extinct. Several laws, subsequent to the Twelve Tables, tried to remedy the evil. The law *Fusia* forbade making a deed of gift of more than a thousand *asses.* The law *Glicia* compelled the testator to show good reasons for disinheriting his children under pain of the will being declared null. The law *Falcidia* assured to the natural heir one-fourth of the succession.[1] Leo, the Isaurian, raised the right of the children, heirs-in-waiting, to the third or half of the paternal estate.[2] But all these measures by no means impeded the upward march of the system of private property; they hastened it rather, since there resulted therefrom constant parcellings-out and divisions.

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[1] Maine, *Ancient Law*, 209.
[2] *Ibid.*, 273.
[3] *Ibid.*, 54-60.
[4] *Ibid.*, 142.
[6] Maine, *loc. cit.*, 143.
[5] Meyer et Ardant, *Question agraire*, 95.

The movement became more decided when the rights of ownership were granted to women. Ancient Roman law put the wife on a level with the daughter, and both were the property of the *pater familias.* Under Augustus the law *Julia et Papia Poppæa* compelled wealthy parents to guarantee dowries to their marriageable daughters. Later on the same principle was applied to the gifts *propter nuptias*[3] made by the husband. The married woman had also her own property or *parapherna.*[4] From the time that the old household community was destroyed it was certainly just that the women should receive their share out of it, but this increased considerably the formation of personal property, and at the same time led to the creation of a new class of parasites, that of the dowry-hunters, who eagerly vied in meanness with the legacy-hunters.

Once these sweeping reforms had been introduced into its laws and customs, Roman society became completely transformed; wealth, that is, social power, belonged to the cleverest; it was a steeplechase, wherein it was not easy for the most deserving to gain the advantage. The simplicity of life and force of character which had made the greatness of ancient Rome existed no longer save as relics; the decline began. It was manifested in the division of property, in the monopoly in land by a small number of proprietors, in the formation of the *latifundia*. It was a sweeping revolution, brought about slowly. The use of the common pasture-lands, state domains, had at first constituted a privilege attached to the mere right of citizenship; the patricians confiscated it.[1] The wealthy converted to their own use the *ager publicus* bit by bit, and raised the *vectigal* to a rate inaccessible to the poorer citizens.[2] Vain efforts were made to stem the torrent. The Licinian laws decided that no citizen should keep upon the commons more than 100 head of large, and 500 of small cattle, that a single individual should not possess more than 500 *jugera* of the public land, that the occupiers of lands should pay the tithe, that each poor citizen should receive seven *jugera*, that employers should be bound to have free labourers in a number proportional to that of the slaves.[3]

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[1] M. Marigny, *Hist. écon. pol.*, iii. 108.

[2] Meyer et Ardant, *Question agraire*, 95.

[3] Maine, *Early Institutions*, 336.

[4] Friedländer, *Mœurs romaines*, etc., i. 360.—Duruy, etc., *L'Italie*, 487, 488.

The attempt of Tiberius Gracchus at reform was the most radical, and the most complete in its failure. Plutarch tells how Gracchus, when crossing Etruria going from Rome to Numantia, saw the country deserted, and cultivated only by barbarian slaves, and that this sad sight suggested to him the idea of his agrarian law. The words on this occasion put into the mouth of Gracchus by Plutarch are forcible and even suggestive. He said, according to the chronicler, "that the wild beasts in Italy had at least their lairs, dens, and caves whereto they might retreat; whereas the men who fought and died for that land had nothing in it save air and light, but were forced to wander to and fro with their wives and children, without resting-place or house wherein they might lodge . . . The poor folk go forth to war, to fight, and die for the delights, riches, and superfluities of others, and they are falsely called lords and rulers of the habitable world in that land where they have not so much as a single inch that they may call their own."[4] Tiberius

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[1] Meyer et Ardant, *Question agraire*, 62.

[2] *Ibid.*, 80.

[3] *Ibid.*, 65.—Plutarch, *Tiberius Gracchus*.

[4] Plutarch, *loc. cit.*

Gracchus proposed at first the taking back of the lands from the rich with indemnity,[1] then the pure and simple restoration of lands illegally held.[2] But it was already too late, the evil only grew worse. Varro declares that the great landowners had estates so immense that they could not go round them even on horseback, that these estates were for the most part uncultivated or left to unprofitable pasturage, that the part under cultivation was tilled either by free citizens who had contracted debts (*oberati*), or by slaves.[3] Pliny recounts that in certain provinces the whole of the *ager publicus* was held by a few families, that half Roman Africa belonged to six persons when Nero put these monopolists to death.[4] His exclamation, "*Latifundia perdidêre Italiam*," is well known. They ruined even the empire. For a long time the grants given on conquered territories mitigated the disproportion of wealth; later on the evil became incurable.

The large landowners were for the most part greedy capitalists. By degrees they expropriated the majority of the small holders of land, and even constrained a great number of them to cultivate their vast estates; for, according to Roman law, the insolvent debtor who had no bail could not leave the land he occupied. Gangs of slaves thus came to fill the place of free labourers. This system had begun long since, for Rome had wished to compete with the corn-growers of Carthage,[5] and, in matters of political economy, antiquity was not squeamish. In Rome, as in Greece, the system of protection was practised in excess, and with a barbaric frankness. Thus Cicero relates how the Romans caused the vines and olive-trees of Gaul to be destroyed, to spare the Italian landowner a formidable competition;[6] it was not until the third century that the Emperor Probus allowed the Gauls to resume the culture of the vine.

During the long imperial decadence property on the large scale ended by ruling and ruining everything. The State farmed out the taxes to the wealthy landowners, and, what was more, in order to hold public offices it was necessary to be a landowner. All handicrafts were carried on in the towns by the slaves of the well-to-do. At last the rich merchants set themselves eagerly to the work of dispossessing the small peasant proprietors, so that they too might obtain places among the ruling class.[1]

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[1] Plutarch, *loc. cit.*

[2] *Ibid.*

[3] *De re rustica*, i. 17.

[4] *Hist. nat.*, xviii. 7.

[5] Meyer et Ardant, *loc. cit.*, 74.

[6] *De Republica*, iii. 6.

As a matter of course the general result was the desertion of country places, the abandonment of the soil, and depopulation. One of the chief cares of the Byzantine emperors was to check this evil, or, at least, to try to do so. From the time of Constantine it was decided that the sale of landed property to any one outside the commune should only be possible with the consent of the members of the commune.[2] Justinian decreed that the creditor should not receive in pledge land, slaves, oxen, sheep, nor take more than 4½ per cent. annual interest.[3] Under Constantine an attempt was made to compel the landowners to occupy the *agri deserti*, and to pay the taxes on them.[4] The large estates were registered separately, and paid direct taxation, whilst the small landowners lodged theirs in the hands of one of the members of the commune, who was responsible to the public treasury, as is still done in the countries of village communities. At the beginning of the third century none except members of wealthy families could leave their commune.[5] The burden of getting in the taxes dominated everything.[6] The laws of Justinian, however, forbade the great to exercise an industry, so that the plebeians might the more easily grow rich.[7]

At the same time the regions bordering the frontier were used more and more as colonies by stationing there soldiers, for whom the land revenue took the place of pay.[8] On the other hand, colonies of barbarians, transported chiefly from Germany, were established within the empire itself; later on these were enticed peaceably by offering them lands to cultivate. At this period the labourer everywhere was attached by one bond or another to the soil. If he lived in an agrarian community, it was the treasury that bound him; if he was a slave or *colonus*, he was dependent on his master, the State, and later, the Church. And all this prepared the way admirably for the establishment of feudal serfdom, which was in fact the final outcome of it, as we shall see by casting a glance at the development of slavery in ancient Rome.

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[1] Meyer et Ardant, *loc. cit.*, 73.

[2] *Ibid.*, 102.

[3] *Ibid.*, 103.

[4] *Ibid.*, 99.

[5] *Ibid.*

[6] *Ibid.*, 102.

[7] Code of Justinian, iv., tit. 63.

[8] Meyer et Ardant, *loc. cit.*, 107.

IV. *Slavery in Rome.*

Naturally I have here to consider slavery only from the standpoint of property. In the early days of Rome the condition of the slave in no wise differed from what it is among most barbarous races. The servile class was chiefly recruited by war; but, as we have seen, the insolvent debtor could be reduced to slavery; finally, the head of a family had the right to sell all those, relatives or not, over whom he had the *potestas* or *manus*. The free men, given *in mancipio* by the master, must not, it is true, be subjected to any outrageous treatment, but their condition was none the less servile.[1]

The Roman slave was precisely on the same level as articles of property. On the estate the persons of slaves, and later, free men who had been reduced to slavery, were reckoned among the *res mancipi*, and proprietary rights in them could only be transferred by carrying out the formalities of mancipation. But much less ceremony was needed for the prisoners of war, especially the barbarians, who were treated like wild beasts, captured, and sent, often by thousands, to the markets and amphitheatres. When conquering Rome overflowed Italy, merchandise in slaves was plentiful, and sold at a low price in accordance with the law of supply and demand. After the conquest of Corinth until the time of Septimus Severus (from 144 B.C. to 235 A.D.), it was calculated that there were three slaves for every free man.

After the conquest of Sardinia there was a saying, "Dirt-cheap as a Sardinian." Marius made himself master of 90,000 Teutons and 60,000 Cimbri. Lucullus carried off so many men in Pontus, that the price of a slave then went down as low as four drachmæ (3s.). According to Plutarch and Appian, Cæsar made a million captives in Gaul.[2] At last the slave-markets were regularly supplied by Græco-Latin and Semitic piracy. The Isle of Delos was the great commercial centre for Mediterranean slaves. There was a daily ingress and egress of several thousand slaves at its port.[1]

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[1] Cubain, *Lois civiles de Rome*, 133.

[2] Meyer et Ardant, *Question agraire*, 82.

Under Roman law, the slave was an article of property like anything else. In the *De officiis*, Cicero quotes Hecaton, who asks, in his sixth book, whether, when it is needful to lighten a ship in peril, a costly horse or a valueless slave shall be thrown into the sea.[2] Cato the Elder, says Plutarch, "sold his old serfs much as if they were dumb beasts."[3] The Aquilian law made no distinction between an injury done to a domestic animal and that done to a slave. In both cases only the depreciation in value which resulted was taken into account.[4] The Roman slave acquired only on behalf of his master; if he committed a misdemeanour no direct action against his owner resulted from it, only a *noxal* action (*Twelve Tables*, Table XII., Prov. ii.).[5]

The power of owning and exploiting men exactly as if they were domestic animals, added to the progressive mobilisation of the soil, produced the results that might have been expected from them—namely, the gradual enslavement for debt, or the expropriation, of the free small landowners, and the establishment of large estates and slave labour. The *latifundia* were worked by slaves divided into *decuriæ*, each decuria being overlooked by a *villicus*. Helped by the interest of the owner, the colonage was born of this agricultural slavery. Varro advises the localising of deserving slaves, by giving them a spot of ground and a small flock: "Grant this to your good servants," says he; "they will thereby be the more attached to your estates." In the end an agreement was entered into between these detached slaves and their master. They were granted the possession of an allotment under certain conditions. Afterwards the proprietor found it advantageous to himself to allow this kind of tenure to pass to the children of the slave; sometimes he even insisted on their accepting the post that had been given to their father, and they then became *servi adscripti*, of whom a register was kept.[1] Lastly, the laws concerning these went so far as to forbid the master to sell his slaves without the land they laboured on. Henceforth the slave had a kind of beneficial occupancy, a hut of his own, a family of his own; he became an attached serf, or tenant serf (Code of Theodosius); but there were always beside him ordinary slaves working in gangs in the old fashion.[2] A law of Valentinian I. forbade the sale of slave tenants without the lands which they cultivated.[3]

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[1] Cubain, *Lois civiles*, etc., 125.

[2] E. Havet, *L'Hellénisme*, ii. 117.

[3] Plutarch, *Marcus Cato*.

[4] Cubain, *loc. cit.*, 124.

[5] Duruy, etc., *L'Italie*, 496.—Ortolan, *Hist. leg. rom.*, 104.

This tenant serf is the *colonus*. He is not always descended from slaves. Sometimes his ancestors have been barbarians, either invited or brought by force, sometimes small farmers or insolvent landowners. But the law did not concern itself about the sources of things. It regarded the *colonus* as a man reputed free, who, through payment of a fixed rent, or rather by giving a certain number of days' forced labour, cultivated a piece of land to which he was attached.[4] Hence it came about that free men voluntarily became *coloni*. Humble though it was, the position had some advantages; the landowner could not turn out the *colonus*; he could not change the conditions of tenure. The law punished every landowner who attempted to take over the *coloni* of another; but the master might not increase the customary dues, and consequently the surplus value of the soil profited only the *colonus*. The *coloni* could not be sold without the land, nor could new *coloni* be brought in. The children of the *colonus* inherited his holding, and he himself might be a landowner outside it. Beside the conditions agreed on at the outset, the master could claim nothing from the *colonus*; in short, he was an irremovable farmer.[5]

The Emphyteuta of the frontiers, that is, the soldiers to whom the occupation of a plot of land for a long term had been granted, were likewise protected from all kinds of disturbance so long as the *canon* or quit-rent was paid by them.[1] Freer than the *colonus*, however, they could sell their land by giving notice of the price offered to the proprietor, who for the space of two years possessed the right of pre-emption and the power of rejecting an incompetent grantee.[2]

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[1] Fustel de Coulanges, "Domaine rural à Rome" (*Revue des Deux Mondes*, 1887).

[2] *Ibid.*

[3] Meyer et Ardant, *Question agraire*, 87.

[4] *Ibid.*, 88.

[5] Fustel de Coulanges, *loc. cit.*

We see therefore that, on the whole, serfdom, which we shall come upon in the feudal system, is at least as much Roman as barbarian in its origin. The German invaders, and others who dismembered the Roman Empire, found established throughout it, under the guise of colonage, a rather mild slavery, and it was enough for them to aggravate it to a certain extent in order to transform it into feudal serfdom. And now, to terminate this chapter, it remains to state the social lesson which springs from the history of Roman property.

V. *The Cause of Rome's Downfall.*

Many works have been written concerning the Roman downfall, some of which are masterpieces in style and erudition; but none of them have made clear enough the chief reason of the great overthrow. This far-reaching and all-powerful cause, hidden under historic events, must be sought for simply in the manner in which property was evolved in Rome. From the point of view of the lessons to be drawn from it, the history of the great Latin empire is still more valuable than that of Greece, for we know it better, and it touches us more nearly.

In both countries the first steps were the same; they passed from the communal clan, from the *gens*, to the communal household, ruled despotically by the father. In Rome this last system was that of the heroic age. During this period Roman society was based on numerous household groups, wherein, however, kinship was not indispensable. In the midst of the little social units there was a close solidarity of interest; every one within them obeyed the head, but in return no one was neglected; there were domestic slaves, but few in number.

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[1] Maine, *Ancient Law*, 301.

[2] Meyer et Ardant, *Question agraire*, 84.

By degrees everything changes. Private property is separated from the property of a household, and its exorbitant rights are recognised, even such as had never belonged to it before,—the famous right of use and abuse. At the same time liberty of bequest, which, at first, had merely been that of regulating the internal arrangements of the household, of distributing within it the shares of each, for the better interests of all, ended by being completely free, only to reflect the whimsical selfishness of the proprietor. Furthermore, the very extension of Roman dominion speedily created international exchanges, and in consequence engendered the fever of commercial speculation. First of all, it was necessary to compete with the agricultural production of Carthage, where servile labour was practised on a large scale and without scruple, that is, where wheat was produced very cheaply. To do this the Romans began to imitate their rivals, dreaming all the while of their destruction. The *Delenda est Carthago* of the elder Cato, Cato the usurer, is a good reflection of this state of commercial envy and rage. Once started, the movement did not stop. Their conquests gave them slaves by the million; little by little the small free landowners, unable to withstand the competition of the owners of the *latifundia*, were ousted, forced into debt, and, in consequence, themselves compelled to furnish servile labour, since the creditor had the right of seizure upon his debtor. In time Roman society in Italy, and outside it, ended by being made up only of a minority of large landowners exploiting a multitude of slaves. The condition of these latter became, it is true, gradually less harsh than that of the slaves in early Rome; it was softened into the colonage, or serfdom. This was necessary even from the point of view of the holders of the soil, who understood their own interests well, and were at the same time manufacturing producers; but once this economic change was accomplished, the huge body of the empire had no longer either cohesion or vitality.

It cannot be too loudly proclaimed: economic evolution necessarily goes hand in hand with a moral development strictly related to it. Nowadays, broken in to the individualist system, we regard with astonishment the fierce patriotism which inflamed the little cities and republics of antiquity. But this sentiment was inspired by the very instinct of preservation. In the bosom of the clans and of the families interests were solid. Defeat might bring with it not only complete ruin, but also slavery. Patriotic enthusiasm was but the idealised love of property. As economic individualism progressed, the masses became detached from a *res publica* which no longer had anything public about it. The wealthy, the ruling classes, thought chiefly of maintaining and increasing their estates. As to the enslaved masses, what did a change of masters signify to them?

"It is absurd," says Diodorus Siculus, speaking of Egypt, "to entrust the defence of a country to people who own nothing in it." This is a very wise reflection, and it is applicable not only to the people of antiquity.

CHAPTER XVI.

PROPERTY IN BARBAROUS EUROPE.

I. *Distinction of Races.*—Berbers, Kelts, Germans, Slavs—Persistency of this distinction.

II. *Property amongst the Basques, Iberians, etc.*—Savagery of the Cantabrians—Their household property—Annual allotments among the Vaccaei—Household property among the Basques—Its persistence.

III. *Property amongst the Kelts.*—Their monarchic and aristocratic tribes—Extreme savagery of the Britons in England—Property in Ireland—The Irish tribe—Annual allotments—Widespread hospitality—The *fuidhirs*—Allotment after decease: *Gavelkind*—Right of inheritance for the chiefs: *Tanistry*—Usurpations of the chiefs—Influence of riches—Enslavement by the *cheptel*—Extreme importance attached to wealth—The chiefs become feudal lords—The *Brehons* and the Catholic priesthood—The clans of Wales—The Scotch clans—Undivided property of the Gallic clans—The chiefs become large landowners.

IV. *Property amongst the Germans.*—The German clans—Communal property—Allotments—Household property—Salic land—The *allod*—Acquisitions.

V. *Communal Property in Modern Europe.*—Survival of the *mark* in the Netherlands—The *allmenden* of Baden and of German Switzerland—Their organisation—Village communities in Scandinavia and Lombardy—The rural community of Jault in the Nivernais—Communal tillage in the islands of Houat and Hœdic—Survivals of communism in Morbihan.

VI. *Rural Property amongst the Slavs.*—The Getæ of Horace—The Dalmatians—The Russian *mir*—Its organisation—Communal pasture-lands among the Cossacks of the Ural—Allotments within the *mir*—Individualistic tendencies—Powers of the *mir*—Patriarchal family—Household property—The Servian *Zadrouga*—Struggle between the *mir* and private property in Russia—Commune by lot—Beginning of serfdom.

VII. *The Village Community in Europe.*—It has been general over this continent.

I. *Distinction of Races.*

Leaving out of account Greece and Italy, with which we have been occupied in the preceding chapters, the peoples of pre-Roman Europe may be grouped into several races or varieties. In Gaul, Julius Cæsar had rightly classed them into three chief races—the Aquitani in the south, the Kelts in mid-Gaul, the Belgæ in the north-east. Under the general name of Aquitanians may be comprised the Iberians, Basques, and Cantabrians of Spain, in short, the ancient Berber populations which formerly occupied not only the south of Gaul but also Spain, and thus formed one of the great ethnic divisions of Europe. Further north were, and still are, the Kelts, settled not only in Gaul, but also in Central Europe, in the valley of the Po, and in the British Isles. In the north-east the Belgæ of Cæsar's time were allied with the great Germanic race. Lastly, further to the east were the Slavonians, but little known to the Romans, holding possession of eastern Europe. Such, in broad lines, was the general division of the tribes, of white race certainly, but barbarous and even savage, in early Europe, and since then this classification has not varied perceptibly in spite of wars, conquests, and historic invasions.

I have now to set forth the system of property as it was among these great ethnic families of early Europe, by pointing out the survivals of this ancient state of things.

II. *Property amongst the Basques, Iberians, etc.*

According to Strabo, the Cantabrians were at that time still complete savages, quite on a level with the negroes in Central Africa of to-day. Like the Oboodies of the Upper Nile valley, they washed their mouths out with their urine.[1] Sitting cross-legged, they raised their songs of victory like the Redskins. They practised the *couvade*,[2] and in consequence they were in process of establishing the paternal family, but it was still among them the girls who inherited and married with their brothers;[3] maternal affiliation and at the same time the system of family property prevailed in their tribes.

Further north, but still in Spain, the Vaccaei, a Keltiberian or rather Basque tribe, extremely hospitable, according to

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[1] Strabo, III., ch. iv., sec. 16.
[2] *Ibid.*, 17.
[3] *Ibid.*, 18.

Diodorus, divided their fields among themselves by annual allotments, but cultivated them in common, and punished with death those who kept back anything whatever of the crops.[1] From the time of Græco-Latin antiquity up to now, the system of property among the Basques, who were neighbours and very likely cousins of the Cantabrians, has been doubtless modified but very slowly, since family property is still maintained in certain districts even to this day. In 1768 the custom approved in the Basque province was still that family property should remain and pass intact, as in Japan, to the eldest child without regard to sex. If the eldest were a daughter, the man whom she married, and who was necessarily a junior member of the family, came to dwell under the same roof, and adopted the name of his wife, which was therefore transmitted to the children. The dignity of the head of the family, the care of keeping intact the family name and estate prevailed over every other consideration among the Basques. The property of the family was, among them, inalienable. The produce of the estate was devoted to the needs of the household and of its members, to the education of the children, the marriages and settlements of the adult younger members who left the common hearth.[2] Up to late years, certain Basque families have succeeded in maintaining their ancient customs and the joint-possession of their estates in spite of law and the rights of succession. Within these families, the heir, as head of the family, has the entire management. He cannot leave the house, at least he cannot convey the children out of it. These are, in a way, serfs attached to the soil, and must remain with the nearest relative, who takes, during the absence of the chief, the management of the household community.[3]

The spontaneous development of property among the Basques has therefore been, comparatively, extremely incomplete. It has only passed from the clan community, with annual allotments among the Vaccaei, to the family property of the Basques of our own day, without having arrived at the last form of division, private property.

[1] Diodorus, v. 34.

[2] F. le Play, *Organisation de la Famille*, 31, 122.

[3] G. Teulon, *Origines du Mariage*, etc., 346.

III. *Property amongst the Kelts.*

At the time that the ancients became acquainted with the Kelts, too often confounded by them with the Germans, they were living in aristocratic and monarchic tribes. But little civilised, they inhabited large round huts, built of timber and wicker-work, sleeping on the bare ground, and squatting upon straw to take their meals. They were tillers of the soil, but animal food, especially pork, played an important part in their diet, which chiefly consisted of milk and swine's flesh.[1] Like all savages, they liked jewels and striking colours.[2] The Britons of England were still less civilised than the Kelts of the Continent. They did not even know how to make cheese out of the milk of their herds, and were wretched agriculturists. They lived in the woods under the shelter of huts and pastured their flocks in the glades.[3] Finally, the wildest of all the Kelts, the Irish, were still cannibals.[4] I briefly quote these testimonies, undoubtedly very probable, and proceed to the subject of property among the Kelts.

On this point we are much better informed, not only by the Græco-Latin writers, but recent research, which, by making use of traditions, the written records of Irish literature, historic information, and, lastly, the survivals of past ages, has made us sufficiently well acquainted with the system and development of property among the Keltic populations. Ireland, through having preserved up to a comparatively late period her independence and ancient customs, is especially interesting for us to study. Her geographical position allowed her to enjoy for a long while a national life, and to develop in accordance with her own bent. She has even been an important centre of Keltic civilisation, and when at length she accepted Christianity her missionaries went forth boldly to spread the new faith in barbarous Europe. The system of property has developed in Ireland as everywhere else; but, on the whole, it is representative to us of what it has been and what it would have become in other Keltic countries, if these last had preserved their liberty.

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[1] Strabo, IV., ch. iv., sec. 3.

[2] *Ibid.*, sec. 5.

[3] *Ibid.*, ch. v., sec. 2.

[4] *Ibid.*, sec. 3.

Now, the political unit of Ireland is the tribe, which in turn is subdivided into clans. The Irish tribe is self-governing, it has its own life. "The tribe," say the Brehon Tracts, "sustains itself. Its continuity has begun to depend on the land which it occupies. Land is perpetual man."[1] The tribe is subdivided into clans, little kindred groups, of about fifty or sixty persons each, reputed to be descended from a common ancestor.[2] Subject to the community, the arable lands are distributed among the families, whose duty it is to preserve their shares of tribe-land intact. "No person should leave a rent upon his land or upon his tribe which he did not find upon it."[3] The word "land" seems to be synonymous with "tribe" or "clan," and, according to this Tract, debts must be guaranteed jointly. "No person should grant land except such as he has purchased himself, unless by the common consent of the tribe."[4] A measured space, no doubt of arable ground, is occupied by a group of families, but the pasture-land and turbaries are held in common. About fifty years ago in Ireland and the Highlands of Scotland, farms belonging to tenant-families shifted among them periodically, and sometimes annually.[5]

For long there were neither walls nor barriers between Irish holdings; later on the number of the families increased, and boundaries were at last introduced.[6] Simply occupiers of the soil, the families could till it only according to traditional customs.[7] A strict solidarity bound the families together, and the meanest of the people could obtain hospitality everywhere; it was almost a right with them.[8] Furthermore, the responsibility of the tribes and families was joint, whence it resulted, as in China, that each group had the right to expel any dangerous member from its midst.[9] These "broken men," *outlaws*, in the end formed a class of fugitives, outcasts, *fuidhirs*, despised hirelings, ever striving to slip into some tribe or another under the patronage of the chief, of whom they eventually became willing tools.[1]

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[1] Maine, *Early History of Institutions*, 107.

[2] *Ibid.*, 187.

[3] *Ibid.*, 108.

[4] *Ibid.*, 109.

[5] *Ibid.*, 101.

[6] *Ibid.*, 114.

[7] *Ibid.*, 109, 110.

[8] Wake, *Evolution of Morality*, i. 372.

[9] Maine, *loc. cit.*, 174.

On the death of a land-owning member of a clan, or *sept*, the chief of the group proceeded to make a new division by increasing the holdings of the survivors, who inherited thus a share in the use of the lots left vacant.[2] It was the system called *Gavelkind*, and its aim was to keep up an equality among the members of the *sept*. It was among the males only that these allotments and divisions were made. These levelling customs, however, existed only for the humble folk. The clans had chiefs, and were grouped into tribes, who rendered obedience to these petty kings. No doubt, in the beginning, these chiefs had been subject to the common law, only they held possession of a much larger allotment. The chiefs had to be elected, but they were generally chosen from the same families. As a rule a son was not chosen, but the nearest collateral relative, the brother, the cousin, or some elder of the *sept*.[3] In the course of time the power and lands of the chief became hereditary,[4] and, as the chief was called *Tanist*, he established a right of private inheritance, *tanistry*, practised by the aristocratic families; the communal right, called *gavelkind*, being reserved for the commonalty.[5] But the commoner himself ended by following the example of his rulers, in yielding to the desire for lasting possession; each family clung to its allotment. Redistribution became more and more rare, then ceased altogether. Property was thenceforth hereditary, but nevertheless it continued to belong to the family. The clan had no longer any rights beyond those of opposing sales and controlling the modes of tillage.[6] Up to the reign of James I., however, village communities still existed in Ireland, every year dividing the land by drawing lots, and sometimes cultivating it in common.[7]

It was therefore the right of private property, at first granted to, then usurped by the chiefs, which ruined the early system of communism in Ireland, and in the end created a real proletariat. The development is interesting.

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[1] Maine, *loc. cit.*, 175.

[2] *Ibid.*, 99, 189.

[3] *Ibid.*, 201.

[4] McLennan, *Primitive Marriage*, 498.

[5] Maine, *loc. cit.*, 185.

[6] *Ibid.*, 189.

[7] E. de Laveleye, *De la Propriété*, 103.

At first the chief's share became hereditary; then the owner of it claimed the eminent domain of the lands not yet allotted; finally, he installed in them his strange hirelings, his *fuidhirs.*[1] In addition, he pastured his flocks upon the common-lands, and, thanks to his cattle, his *cheptel*, his live stock, he succeeded in enslaving his comrades.

In every uncivilised country wealth is often the basis of political power. It is on this head that the Irish of former days and the Redskins valued themselves. "The head of every tribe," says an old Irish tract, "should be the man of the tribe the most experienced, the most noble, the most wealthy, the most truly popular, the most powerful to oppose, the most steadfast to sue for profits, and to be sued for losses."—(Cain-Aigillne, 279.[2]) But this untutored admiration for wealth cost the Irish dear. The chief's herds grew in numbers, by reason of his privileges, and no doubt because of the lion's share which he claimed for himself out of the spoils of war. The petty potentate strove to place out his cattle among his poor subordinates.[3] He lent live stock to the tenant of high degree (*saer*) for seven years, and annually received from him the "growth increase and milk" as hire. At the end of seven years the tenant became the owner of the cattle which meantime he had been able to employ in tillage. But personal dependence grew in direct proportion to the quantity of stock received. The tenant of high degree took only a small quantity, merely to mark the claims of homage. The tenant of a lower status (*daer*) received a greater number, and parted with so much the more of his freedom.[4] The agreement soon ceased to be a matter of business; the tenant sank to an inferior position and became a vassal. He owed not only homage, but also services in the reaping of the chief's crops, in building his castle or fort, etc. Not only might he be required for manual labour, he might also be required for war.[5]

Lastly, the chief, as cattle-lender, had the "right of refection," that is to say, the power of coming at particular periods for a fixed number of days to a tenant's house, to feast there with a company of a certain number.[6] The placing out of his herds was so much to the chief's advantage, that he ended in compelling the tribesmen to accept them.[1] Thereby a feudalism of a special kind was established, the feudalism of the *cheptel*. The whole social hierarchy rested on the greater or less personal wealth, that is, on the quantity of live stock, owned by individuals. "Two persons," says the *Senchus Mor*, "are equal when they have both the same amount of wealth." However, birth was held of some account—"He is an inferior chief whose father was not a chief." There were, in fact, even degrees of nobility, of which the lowest was, the "cow-nobleman" (Bo-Aire); but wealth was ennobling, and if the "cow-nobleman" succeeded in acquiring "twice the wealth of an Aire-desa," a nobleman of superior rank, by this alone he became an Aire-desa himself.[2]

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[1] Maine, *loc. cit.*, 175.

[2] *Ibid.*, 134.

[3] *Ibid.*, 157.

[4] *Ibid.*, 158, 159.

[5] *Ibid.*, 159.

[6] *Ibid.*, 161.

After the English conquest, which had no respect for clans or inferior *septs*, these could have had but uncertain claims. The lord alone was the freeholder,[3] and he imposed a very heavy yoke upon the commoners subject to his will. These poor wretches did not dare to lease the land for longer than a year, so much were they oppressed. "The lord," says Sir John Davis, writing rather before 1613, "is an absolute Tyrant, and the Tenant a very slave and villain, and in one respect more miserable than Bond Slaves. For commonly the Bond Slave is fed by his Lord, but here the Lord is fed by his Bond Slave."[4]

In pagan Ireland the "Brehon" class, composed of the judges and priests, exercised a certain intellectual influence. After the introduction of Christianity this class was by degrees ousted by the clergy recruited from the tribe, like their predecessors. In the end these claimed for themselves a kind of eminent domain by levying a third upon successions, collecting the tithe, the firstlings of the flocks, accepting legacies, making it a custom for the eldest son of each family to belong to the Church, either as a priest or as a *Daer-tenant*, tilling the Church lands.[5]

To sum up, property and social organisation are to be seen in Ireland developing side by side, and nothing can be more natural. First, it was the republican clan and communal property. Then, by a slow series of encroachments and usurpations, the chiefs established private property for their own benefit; at the same time, by monopolising the capital, in the form of live stock, then the most important, they made bond slaves of their comrades, formerly their own kin; lastly, thanks to the investiture received from the conquerors of their country, they became complete feudal lords.

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[1] Meyer et Ardant, *Question agraire*, 131.

[2] Maine, *loc. cit.*, 135, 136.

[3] *Ibid.*, 207.

[4] *Ibid.*, 179, 180.

[5] Meyer et Ardant, *loc. cit.*, 118.

We do not possess information as circumstantial and connected concerning the other Keltic populations as about the Irish, but an analogous development took place everywhere. Of all the European races, the Kelts preserved for the longest time the clan system. In Wales the kindred clans formed a whole, paying fines for the crimes of their kindred and receiving compensation, as in Ireland.[1] In the Highlands of Scotland, the chiefs of the clan were sometimes charged with distributing food to the heads of families, their subordinates.[2] At quite a modern period, the lawyers, saturated with Roman law, attributed to the Scottish chiefs the ownership of the communal land, of which in days gone by they had had only the management.[3]

The Gallic Kelts had a like system. Their clans too lived on estates held jointly. But, as in Ireland, the chiefs in the end monopolised the greatest share of the live stock, the beasts of burden; consequently they enslaved their so-called kindred, compelled them to work for them, and at last were recognised by the Romans as owners of the communal lands and even of the dwellers thereon.[4] Everywhere in Gaul, Roman conquest thus transferred the property of the *ager publicus* from the clans and tribes to the hands of those who, under the Gallic system, were only the chief occupiers. Thus raised to the very enviable dignity of large landowners, these chiefs received the right of Roman citizenship and a Roman family name, which they gave to their usurped estate, thereby imitating their conquerors.[5] The greater number of French place-names ending in *y* are contractions of these names of private estates: (Issy,

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[1] McLennan, *Primitive Marriage*, 488.

[2] Maine, *Ancient Law*, 268, 269.

[3] *Ibid.*, 228.

[4] Rambaud, *Civilisation française*, i. 13.

[5] D'Arbois de Jubainville, *Acad. Inscript.* (February 1887).

Icciacus; Antony, *Antoniacus*).[1] It is the same with our place-names ending in *ac* (so common especially in the south of France), which, a little less shortened than the names ending in *y*, have only replaced the termination *acum* by its abbreviation *ac*.

IV. *Property amongst the Germans.*

At the time when Rome discovered Germany and entered into a contest with her, the system of property there closely resembled the Keltic. The population also was grouped into tribes, subdivided into kindred clans. But within these latter, families were already distinguishable. The clan, the village community, the *vicus* of Tacitus, was composed of a certain number of families, owning in common a fixed territory and living on its produce. This land was divided into three parts or *marks*: the village mark, the arable mark, and the common mark or waste.[2] The arable land was allowed to lie fallow by cultivating annually different spots, and there were periodic allotments among the families;[3] however, these lots were already of unequal sizes, corresponding to the rank of each person connected with the community.[4] But the Germans were still very indifferent husbandmen; they lived chiefly upon the produce of their flocks.[5] The arable land was necessarily limited; moreover, personal and hereditary property was granted without difficulty, on such or such a portion, taken from the forest or waste lands and put under cultivation. These portions of land, however, were seemingly of small account, so that they were not even subject to the traditional and compulsory agricultural customs.[6]

The family was already paternal and even subject to the *patria potestas*, like that of the early Romans. The dwelling-house and precincts were family and hereditary property, almost sacred, since no one had the right to enter without permission.[1] It was Salic land, transmitted by inheritance, but only from male to male. Besides this, every head of a family tilled with his sons and slaves the share that had been assigned to him, usually by lot. There was a compulsory rotation of crops; for every field had to lie fallow once in every three years.[2] Appointed officers watched over the right of pasturage and timber-felling on the forest mark.[3] To facilitate the periodic redistributions of the arable mark it was divided into long strips, subdivided crosswise into portions, each about an acre in extent.[4] This division of the soil into long narrow strips is usual in all countries where the custom of allotments prevails, and it often survives it after the establishment of private and hereditary property.

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[1] D'Arbois de Jubainville, *Acad. Inscript.* (February 1887).
[2] Maine, *Village Communities*, 78.
[3] Cæsar, *De bello Gallico*, vi. 22.
[4] Tacitus, *Germania*, 26.
[5] Cæsar, *loc. cit.*
[6] E. de Laveleye, *Propriété*, 110.

The dwelling-place, the Salic land, the *allod*, was the common property of the family. It could not be willed away, and could be transferred only with the consent of all the male members of the family, for the sons were, as in India, joint-owners with their father.[5] When the Franks settled upon conquered lands, they recognised two kinds of property: the allodium (*allod*, *terra salica*) and the acquisitions. The daughters were still excluded from the *allods*, but they were granted a share in the acquisitions.[6]

Necessarily I can only quote main facts here, but they amply suffice to show the very great analogy which existed in barbarous Europe between the system of property in the lands of the Kelts and of the Germans. Communal property of clans or of families existed everywhere; it also tended generally to develop into private property. But nothing is more primordial than the method of appropriation, and nothing changes with greater slowness. Moreover, in spite of the Roman conquest, in spite of the long and powerful influence of Latin legislation, which survived and continued its work of assimilation after the fall of the Empire, the ancient manner of ownership has left until now more than one trace in western Europe, and it is still extant in a large part of the Russia of to-day.

[1] Maine, *Village Communities*, 78.

[2] *Ibid.*, 79.

[3] *Ibid.*, 79.

[4] *Ibid.*, 98.

[5] *Ibid.*, *Ancient Law*, 228.

[6] Hanoteau et Letourneux, *La Kabylie*, ii. 287.

V. *Communal Property in Modern Europe.*

The ancient Germanic mark exists still in the Netherlands, in the Drenthe, the old hunting-ground of the German emperors. Triennial rotation is always observed there, and the common field is divided into three parts: one wherein winter rye is sown; another for the summer rye; a third which formerly lay fallow, but where nowadays buckwheat crops are raised. The times of sowing, tillage, and harvest are commonly decided on by those jointly interested, and after due consultation.[1]

In the duchy of Baden, and above all in German Switzerland, village communities are still numerous, and their organisation closely resembles that of the Germanic *mark* described by Tacitus and Cæsar. These agricultural communities are to be found especially in the cantons of Saint-Gall, Glarus, and Schwitz. They bear the significant name of *allmenden*. All the valley of Schwitz was, under the Hapsburgs, constituted thus in distinct *allmenden*, having however their General Assembly (*Landesgemeinde*), which superintended the use of the communal woods and pasture-lands. None of the joint-owners could sell their houses or lands to a stranger. Uri and Unterwalden were also formed into analogous marks.[2] In the cantons of Saint-Gall, Glarus, and Schwitz, a certain number of *allmenden*, village communities, exist even to this day. In the first-named the village of Buchs gives to each of its commoners an acre and a half of good land, fireing for the year, Alpine pasturage for a numerous herd, and it exacts, moreover, from the villagers the wherewithal to pay the schoolmaster, the pastor, and other expenses of public utility.[3] In Glarus the common shares vary from three-fourths to one acre. Each family keeps its own share for a varying number of years, ten, twenty, or sometimes thirty; then the shares are re-formed and drawn for by lot, after the ancient custom. Every communal family has its house, and can, by means of a small fee, send its herd to graze on the common pastures. There are few or no taxes, and the communal lands suffice to defray the public expenses.[1] Every new household in the *allmenden* having a right to a share, several lots are held unassigned in reserve, and are let whilst waiting for the occupancy to be decided on.[2] But to be a commoner of an *allmend*, it was necessary to be descended from a commoner's family from time immemorial.[3] The commoners assemble at stated times. At Gross, in the canton of Schwitz, all the commoners over eighteen years old meet once a year, in April, to settle current affairs, and to hear the accounts read over. The president has always the right to convoke the assembly, which every two years re-elects its officers. No one may refuse to fill the office to which he is appointed. Seven elected members form a permanent council, which regulates the using of the woods, gets ready the allotments, represents the community in the courts of justice, sees to the doing of minor works (up to sixty francs), settles the fines or damages that have been incurred. When the council meets, a fine is inflicted on the absent members who can show no just cause of hindrance.[4] Everywhere, notwithstanding the collective ownership, so vilified by the fanatics of individualism, the *allmenden* are admirably tilled.[5]

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[1] E. de Laveleye, *De la Propriété*, 315, 316.

[2] *Ibid.*, 120.

[3] *Ibid.*, 279.

Survivals of communism are not always so well preserved as the *allmenden*, but they are to be met with elsewhere. Sir Walter Scott detected village communities in the Orkney Islands. They still exist in Scandinavia.[6] In Lombardy there are still communities formed of four or five households, having a joint dwelling and governed by a chief, the *reggitore*, and a woman, the housekeeper, the *massaia*.[7] In 1840 Dupin pointed out the existence or rather the survival of an agricultural community, the community of Jault, in the Nivernais. The property of this rural community is made up of lands of ancient holding, acquisitions, live stock, and a communal cash-box. The men alone are the effective members of the community. The women are taken care of in it, in sickness and health; and if they marry out of it they are given a dowry of 1,350 francs at most: widowed, they may return to the fold. Women from without, married by members of the community, in order to belong to the group have to pay a sum of 200 francs, which, moreover, they can claim again in the event of widowhood, but on condition of leaving the community.[1]

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[1] E. de Laveleye, *loc. cit.*, 289, 290.

[2] *Ibid.*, 307.

[3] *Ibid.*, 279.

[4] *Ibid.*, 308.

[5] *Ibid.*, 31, 307.

[6] Maine, *Village Communities*, 10.

[7] E. de Laveleye, *loc. cit.*, 245.

On the coast of Morbihan, the little isles of Hœdic and Houat were, but a few years ago, tilled communally and managed by the *curé*, helped by twelve old men, chosen from among the most esteemed. The most necessary implements or tools were bought at a shop kept by the *curé*, the profit going to the church revenues. In return, in times of distress, especially in bad winter weather, when no one could go fishing, the church used to lend on word of honour, and without interest, small sums to any who asked them. But the loan was strictly required to be repaid after the next fishing expedition, even though it had to be renewed immediately. Whoever did not pay back lost all credit for ever. In the department of Morbihan I have already pointed out as a relic of communism the existence of tenancy-at-will. Upon the shores of the same department, custom has kept more than one impress of early times. If a man wishes to build a house, he merely begs his neighbours to do him a day's "carting," that is, to cart for him all the materials he needs. This social task is cheerfully fulfilled, and he for whose benefit it is done, by way of returning thanks to his obliging neighbours, invites them to a communal repast. The custom of mutual aid in harvesting the wheat or buckwheat was formerly usual in Brittany and even in Normandy.[2]

To connect these customs merely with instincts of sociability or altruism would be not to go to the bottom of the thing; the cause would not so be found. Innate inclinations must result from a corresponding mode of life led for a length of time, and leaving in the end deep traces on the mental habits of a race. Social solidarity necessarily engenders altruism; on the other hand, extreme individualism, the struggle for life of each against all and all against each, cannot but inspire feelings of selfishness.

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[1] Hanoteau et Letourneux, ii. 469.

[2] De Cherville (*Le Temps*, 14 Oct. 1887).

The humane customs just mentioned are simply a last echo of the communal system, of the ancient Keltic clan.

VI. *Rural Property amongst the Slavs.*

Græco-Latin antiquity knew but little about the Slavs; however, Horace mentions the Getae, Germans or Slavs, dwellers by the Danube, who every year made a division of their lands;[1] and Strabo relates how every eight years the Dalmatians also proceeded to redistribute their territory. Such communistic habits are kept up to the present day. Nevertheless, they were for long ignored by the sociologists and economists of Western Europe, so fascinated by Roman law that they were unable to conceive any other mode of possession than the Quiritarian. But those village communities, studied by Sir Henry Maine in Hindustan, which appear to have existed all over ancient Europe, are full of life to-day among the contemporary Slavs, and the whole of Great Russia is divided among them. Beyond the Dnieper thirty millions of Russian peasants, at least, live thus in rural communities. It is the *mir*, or village community system. Each of these Slav villages is a collective unit occupying a fixed territory, and they all come from the system of the clan, the *gens*, that may everywhere be found at the source of all societies. The early clans were closely related by blood. Brothers, uncles, nephews, etc., tilled or used common land under the control of an elected chief, who was of their own stock.[2] In time the *mir*, although continuing for the most part kindred, became chiefly a co-operative association, in this corresponding closely to the Javanese *dessa*.

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[1] "The Scythians of the plains
More happy are, housed in their wandering wains,
More blest the Getan stout,
Who not from acres marked and meted out
Reaps his free fruits and grains:
A year, no more, he rests in his domains,
Then, pausing from his toil,
He quits it, and in turn another tills the soil."
—Horace, *Odes*, iii. 24 (*In Avaros*), trans. Sir T. Martin.

[2] Meyer et Ardant, *Question agraire*, 201.

In the vast steppes of Russia, where the mode of life was for a long while chiefly pastoral, pasture-lands have been allotted here and there in preference to fields, contrary to what is usual in other places. Among the Cossacks of the Ural, as late as the middle of this century, the mowing was done communally. At a signal given by the officers of each *stanitza*, all the men owning the title of Cossacks set to work. A prize was offered to the stoutest mower, for each began on the first day by tracing with his scythe the limits of his portion. All the surface that he succeeded in circumscribing in this way belonged to him, and he afterwards mowed away at his ease therein with the help of his family.[1]

In the *volost* (union of villages) of Tchuïa (government of Vologda) all the fields are held jointly and are subject to redistribution; the meadows alone form private and hereditary property.[2] But there are exceptions, and generally the fields and meadows of the *mir* are periodically allotted. It has not been always so. In olden days the arable land was tilled in common, the harvest being afterwards shared among the families in proportion to the number of labourers which each supplied.[3] To this perfectly communal system succeeded that of periodic allotments, annual at first, then triennial. But the period lengthened by degrees. It is now sometimes six or twelve, at times fifteen, most usually nine years. This gradual increase of settled occupancy corresponds evidently to a tendency towards family or private ownership.[4] As to the meadows they are still allotted annually, and sometimes even twice a year. In certain communities they make the hay jointly, and then share it amongst themselves.[5] The general tendency is to defer the redistribution. In certain districts it has come to intervals of twenty, even thirty years. Among the Russians of the government of Voronetz the lands undergo a new allotment only at the time of the census, the numbering of *souls* subject to the poll-tax.[6]

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[1] Leroy-Beaulieu, *L'Empire des Tzars*, i. 497.

[2] Tikhomirov, "Évolution de la Commune agraire en Russie," *Journal des économistes*, 1887.

[3] E. de Laveleye, *loc. cit.*, 12.

[4] *Ibid.*, 14.

[5] Leroy-Beaulieu, *loc. cit.*, i. 504.

[6] *Ibid.*, 505-7.

Usually the communal land is divided into three concentric zones, corresponding to a triennial rotation of crops. From the middle of the zones extend as many rays as there are joint-shares, but the shares are awarded by lot, and as each *soul* has a right to a share in the three fields, these shares are often very far apart.[1] The share of each *soul*, that is, of each male peasant, varies much in size according to the regions. It is on an average from 37 to 49½ acres, but only 24¾ in the most populous districts,[2] whilst amid the frozen plains of the government of Olonetz, where the population is sparse, each one tills in proportion to the number of hands which he commands, merely showing by marks on trees the extent of the land he has chosen.[3] Thus, doubtless, did in former times the scanty inhabitants of the Russian soil. For similar reasons, in Siberia, the meadows only are allotted; the vacant land is so vast that each can till as much of it as his strength permits.[4] In the communities where regular allotments are made, the radiated strips which divide the zones are from 219 to 328 yards long, and only from 5½ to 11 in width. This division of the land into narrow strips is, as we have seen, usual in all countries where the custom of allotment prevails; it makes redistribution much easier.[5]

Upon the crown-lands the division is made in strict accordance with the number of *souls*, and every father has a claim on as many shares as he has sons. On the seigneurial lands the division is made among the *tyaglo*. The *tyaglo* is the collective unit of labour. It is formed either by a group of two or three labourers, or most often by a married couple, who in some places must own a horse.[6] As every share pays an equal portion of the tax, they strive to make the shares equal in area and in value.[7] As the result of all this organisation the dwellings of the members of a *mir* must be placed in the midst of the communal land. This privileged spot, upon which the village is built, escapes the chances of allotment. Every family owns there a house and a garden, which are hereditary property, just as in Java;[1] but this is not the only analogy between the two countries.

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[1] Leroy-Beaulieu, *loc. cit.*, 511.

[2] *Ibid.*, 546.

[3] *Ibid.*, 498.

[4] *Ibid.*, 498.

[5] E. de Laveleye, *loc. cit.*, 18.

[6] *Ibid.*, 18.—M. Wallace, *Russia*, 108.

[7] Leroy-Beaulieu, *loc. cit.*, 509.

The *mir* is a co-operative association, a compact group, of which each member must undertake his quota of the common expenses. The members cannot, therefore, have the power to break the bonds that connect them with the community. The peasant who goes to work in the towns is none the less a holder of a plot of land and subject to the duty of sharing in the common expenses.[2] The affairs of the *mir* are regulated by the assembly of the heads of families presided over by a mayor, the *starosta*. This official keeps order, judges in cases of breach of law, fines to the amount of one rouble.[3] It is the assembly of commoners that settles the times for sowing, harvests and haymaking,[4] and which sometimes decides on what is to be grown. Formerly the ne'er-do-weels of the community could be picked out to serve in the army by the simple decision of the community and *starosta*.[5] The assembly of the *mir* decides besides on the admission of new members, grants or refuses change of abode, leave of absence, and the right to build on common lands. It signs agreements, and interferes in domestic matters. Widows or those whose husbands are absent may take part in the deliberations; they are the heads of the house.[6]

On the whole the community exercises over its members a paternal but inquisitorial power. In return it is responsible for the tax, which it divides among them. The strongest and best off are given more land, and pay a much larger share of the taxes. Certain families without *souls* are exempt from taxation.[7] The decisions of the *mir* are without appeal.[8] The Russian peasants have a very high opinion of the *mir's* power, as several of their proverbs testify: "God alone is the *mir's* judge," "Everything that the *mir* decrees should be done," "The *mir's* sigh shatters the rock," "The *mir* is the bulwark of the country."[9]

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[1] M. Wallace, *Russia*, 136.

[2] *Ibid.*, i. 122.

[3] E. de Laveleye, *loc. cit.*, 11.

[4] *Ibid.*, 20.

[5] *Ibid.*, 25.

[6] M. Wallace, *loc. cit.*, 129-134.

[7] Leroy-Beaulieu, *loc. cit.*, i. 519.

[8] M. Wallace, *loc. cit.*, 129.

[9] E. de Laveleye, *Propriété*, 12.

It must be said that formerly the power exercised by the *mir* over its members was much more extensive, since, under Ivan the Terrible, it went as far as the infliction of capital punishment.[1]

This rural community is made up of patriarchal families, very much resembling what the early Roman family must have been. Formerly there existed in the Slav family the system of the *patria potestas*, then grown weak among the Franks, and against which our old French lawyers protested, saying: "Puyssance de père en France n'a lieu."[2] In Russia, until the liberation of the serfs, the last social unit was the family, having a communal dwelling, joint-property, and being governed despotically by the father. So long as a son had not himself become the head of a household, he remained in subjection to his father, even after his marriage. The family government of the grey-beards was quietly accepted. "Where the white hairs are, there is sense and right," says a peasants' proverb.[3] Often several married sons lived in the same house, or rather same courtyard (*dvor*), working communally under the rule of the father or grandfather.[4] In winter the crowding of families, bedded side by side over the stove of the *izba*, caused, and still causes, a licentiousness easy to be imagined. The children, too, were often married very young, so that the father, the *old man*, who often, in spite of his title, was scarcely forty years old, was not always as respectful as he should be to his daughters-in-law. "My late father," said a Moscow coach man (*isvochtchik*), "was a wise and honest man, only he liked his daughters-in-law too well."[5] At the death of the father, his power passed or rather passes to the eldest of the household, to the eldest son or brother;[6] sometimes, however, the family elects another "elder," or appoints in his place a council of kinsmen;[7] sometimes even the widow succeeds her husband. If there are none but minors to succeed, a kinsman comes and takes up his abode among them, and he is then a joint-owner.[8]

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[1] Tikhomirov, *loc. cit.*

[2] Maine, *Ancient Law*, 144.

[3] Leroy-Beaulieu, *loc. cit.*, 474.

[4] *Ibid.*, 478.

[5] *Ibid.*, 488.

[6] Laveleye, *loc. cit.*, 23.

[7] Maine, *Early Hist. of Institutions*, 117.

[8] Laveleye, *loc. cit.*, 23.—Leroy-Beaulieu, *loc. cit.*, 478.

Within the *mir*, the joint-property of a family consists of the house, live stock, the implements of husbandry, some grain, the money from the sale of produce, etc. If one of the sons leaves the house he must bring or send back his earnings,[1] and in such a case the father has the right of allowing him to emigrate, "with the cross only," or on paying him a certain indemnity (*soulte*).[2] The ancient Slavonic law forbade absolutely the conveyance of household property,[3] and the division of it seldom takes place even now, except in houses without their natural head and occupied by several collateral families. Then the property, personal and real, is divided into equal shares, which are drawn for by lot. The wife inherits only the right of representing her unmarried children. She is not a joint-owner, but instead she may do what is forbidden to the men, get together a little property for herself, "a basket" (*korobiia*), which goes to the women of the family if there are no children.[4] The only persons with rights are the married men, brothers, sons, grandsons, the degree of kinship not being taken into account. In many of the villages a family cannot divide among its members the fields that have been allotted to it without the community's authorisation, although this is of no importance in the general divisions. It is stated that nowadays divisions have become more frequent, that families feel more reluctant to live together, and, as in Kabylia, it is the women who are the chief agents in the disintegration.[5] In short, Slavonic families of the old style made no division after a death, neither did they leave wills or bequests.[6]

Outside Russia, the village or house community exists still among various populations of pure or mixed Slavonic race. The Servian *Zadrouga*, governed by an elected *elder*, is closely related to the *mir*. In Servia, Croatia, Slavonia, and within the Debatable Land, the village community is also to be found. Sometimes the group is of a still more archaic type; the soil is tilled in common, and the harvest shared among the families. In Servia an individual may make for himself a small *peculium*, own privately a few sheep, etc., but the right of private property is not applied to land. Furthermore, for one of the members of a family to be able to dispose of the property, it is necessary for all the other joint-owners to be dead.[1]

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[1] M. Wallace, *loc. cit.*, 89.

[2] Leroy-Beaulieu, *loc. cit.*, 482.

[3] Maine, ***Ancient Law.***

[4] Leroy-Beaulieu, *loc. cit.*, i. 481, 482.

[5] *Ibid.*, i. 485.

[6] *Ibid.*, 483, 484.

The abolition of serfdom in Russia, the giving up of the land to peasant families in return for heavy fiscal dues, has necessarily disturbed the ancient system of property, and impelled it toward private ownership. The struggle is therefore to-day between individualism and agrarian collectivism. There are "devourers of the *mir*," who, by trickery, trading on the taste for drink, etc., monopolise the shares. To avoid joint taxation, numbers of well-to-do peasants try to leave the community.[2] Elsewhere, on the contrary, the *mir* takes away and redeems the land from the old lords. It is thus that in the government of Kursk the peasants of the community have in one year acquired land worth two millions of roubles.[3] Nevertheless, an agricultural proletariat has begun to appear in Russia. Many peasants have given up their shares to go into business. From others the community has withheld their shares because they were minors; or rather it has deferred the redistributions.[4] Sometimes even the communal land has been divided for good, which may be done by the general assembly of the *mir*, provided that the step is approved by two-thirds of the votes.[5] The communistic *mir* is then replaced by the *commune in lots*, and these lots are transferable and hereditary. There are communes in lots which have originated otherwise; they are the outcome of grants formerly made to colonising soldiers. A fact worthy of notice is that many of these communes, having by experience recognised the inconveniences of inheritance and indefinite division, have of their own free will come back to the old system of the *mir*.[6]

On the whole the village community seems to have been for many centuries the favourite system of the Slavonic populations. The communities, which at first were republics in miniature, little suitable for resisting conquest even when they were grouped in a *volost*, have ended by being overthrown by the Tzars, who of their own will and pleasure established serfdom, as a public ukase, dictated by Boris Godonoff, decreed in 1597, the last year but one of the reign of Feodor I. Later, they even went so far as to authorise the nobles to sell the peasants without the land, that is, to re-establish slavery in all its inhuman severity. The second Tzar of the house of Romanoff was the initiator of this last backward step in 1675; his successors went on with the work, and in 1783 Catherine, called the Great, reduced to slavery even the free Cossacks. In 1796, her son Paul introduced slavery into the Crimea and the Caucasus. But it must be said that the ancient Slavonic communities have also had their slaves, in this resembling the tribes and clans of Gaul and Germany.[1] Now an attempt on another's liberty always endangers one's own. In almost all countries the early clans have practised slavery, and nearly everywhere they have ended by being themselves enslaved.

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[1] E. de Laveleye, *loc. cit.*, 206, 210, 213.
[2] Leroy-Beaulieu, *loc. cit.*, 524-526.
[3] *Ibid.*, i. 556. [4] *Ibid.*, i. 528.
[5] E. de Laveleye, *loc. cit.*, 22.
[6] Tikhomirov, *loc. cit.*

VII. *The Village Community in Europe.*

My inquiry concerning property in barbarous Europe ends with the Russian *mir;* but if I had observed chronological order, the order of sociological development, I should have had to begin with it. The *mir*, the village community of the Slavs, is in fact an archaic form of appropriation of the soil practised in prehistoric ages by most of the barbarous populations in Europe. We are authorised in believing that at a very distant period, prior to the establishment of the Greek and Roman republics, all the agricultural populations of our continent lived under the village community system, and that they kept to it so much the longer the more they were sheltered from conquest or Græco-Roman influence. In Eastern Europe the *mir* has lasted up to our own time. It matters little, as a Russian writer has tried lately to demonstrate,[2] that, in certain parts of Russia, the *mir* has been reconstituted but

[1] Meyer et Ardant, *Question agraire*, 201, 215, 216.

[2] Tikhomirov, *loc. cit.*

recently by combinations among communistic families. Here and there groups have been able to replace prior divisions; but the re-forming of the *mir* would surely have been impossible if this social form had not been still very much alive, at least in the memories and desires of the people.

In Western Europe the agricultural communities have been slowly destroyed by a series of usurpations and encroachments of the strong against the weak, of the great against the small; by the development of private property, of property on the large scale, which destroyed the ancient solidarity, and ended by enthralling the greater number of families previously free. Such was, in general, the state of Western Europe when the Roman Empire fell, making the establishment of the feudal system an easy matter. Of this it now remains for me to speak.

CHAPTER XVII.

PROPERTY UNDER THE FEUDAL SYSTEM.

I. *Serfdom.*—The feudal system common throughout the world—Its causes—Feudal serfdom—Classes of serfs—Serf-land creates serfs—Principle of feudal serfdom—The basis of feudalism—Ridiculous or odious feudal dues.

II. *Feudal Property.*—Collective taxes in Roman Gaul—The *allod*, Salic land; *acquisitions* and *conquests*—Beneficiary system—The life-benefice—It becomes hereditary—The vagrant—Re-conveyance of benefices—Commendation—General structure of feudal society—Gradual mobilisation of landed property—Persistence of communal lands—Miserable lot of the slaves.

III. *Communes and Guilds.*—Impulse towards combination—Communes—Ecclesiastical property in mortmain—Trade-guilds—Their organisations—Tyranny of the craftsmen's guilds in Florence—Subjection of the nobles—Various communistic organisations of the Middle Ages.

IV. *Transmission of Property, Commerce, etc.*—Eminent domain in the Middle Ages—The rights of forfeiture and of flotsam and jetsam—The suzerain inherits the fief—Right of the elder—Right of the younger—"Le vol du chapon"—Alienation of land forbidden in Poland—Position of woman in the Middle Ages—Personal estate—Right of ransom and its influence—Commerce and industry—Development of industry—Transport of goods—Jewish bankers and those of Cahors—Fierce solidarity—Development of the love of money—Gradual abolition of serfdom—Small holdings—The French Revolution and rights of property.

I. *Serfdom.*

More than once during the researches we have undertaken among the races of mankind to find out what they mean or have meant by property, we have met with countries organised according to the feudal system, which is in no wise peculiar to Europe. In Tahiti, Madagascar, Abyssinia, Malaysia, Japan, Ancient China, Early India, etc., feudalism exists or has existed. It is not a necessary phase, but it is a common one in social evolution. It appears chiefly among populations already organised in monarchic and aristocratic tribes, and at the time when a chief welded under his rule several of the little ethnic groups neighbouring his own, or, still more frequently, when a conqueror subdued a country and found it advantageous to come to terms with the petty kings or chiefs of the tribe, arranging with them as was best for his own interests. He established therefore grades of servility, pressing heaviest on those at the bottom of the scale. The lowest social stratum, on which all the others rested, was the slave or more usually serf, class.

Feudal societies, when thoroughly organised, were no longer in a state of savagery. They were nearly always agricultural. Field labour was the chief source of their bread-stuffs; work was imposed upon the mean, the feeble, the servile classes. Furthermore, as the landed property was well organised, transferable by inheritance, and often alienable and divisible, it was found advantageous to attach the husbandman to the soil he tilled, making labourer and field one and the same. It is especially easy to study the details of this social condition in Europe. In a preceding chapter it has been shown how the Roman *colonus* was by degrees transformed into a serf. The *colonus* of the Lower Empire was an irremovable farmer. He could not leave his field, but the master had no right to thrust him out of it, and might only claim a periodical due, fixed once and for all. In fact, this system was already serfdom, but a judicial serfdom, giving the serf as yet some guarantee of protection. In the fourth century, Valentinian and Gratian forbade by law the sale of rural slaves without the lands to which they were attached,[1] and thenceforth there was no great difference between *colonus*, serf, and slave.

With the Barbarian Conquest the condition of the serfs became much worse. The victorious Germans naturally made light of Roman law wherever it went against their manners and customs. Thus, even in the ninth century, serfs were given or transferred without the land.[2] The Germans were not much given to make subtle distinctions between their slaves. They had for a long while been accustomed to compel their captives taken in war to till their lands, and the Roman emperors had caused them in their turn to submit to a similar treatment. Thus the Emperor Maximin, having overcome the Franks, put them to till the deserted fields of the Nervii and Treviri.[1]

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[1] Viollet, *Histoire du droit français*, 266.

[2] *Ibid.*

During the most cruel period of the Middle Ages, the ninth, tenth, and eleventh centuries, the greater number of individuals of humble but free condition, the small landowners (*Boni homines, arimani*), free men without property, artisans, etc., fell into servitude; because in this violent, troublous state of society a man's dependence on one more powerful than himself was almost a necessary condition of existence. This brought into being two great classes of serfs: the *serfs de corps* (villeins in gross), veritable slaves, who could not free themselves, even by giving up to their lords everything that they owned; and *serfs d'héritage* (villeins regardant), *mortmainable* or *mortallable*, holding fiefs under their lords, and being able to free themselves by giving up their lands.[2] The former were serfs attached to the soil; the others, household slaves, analogous to those that the Germans carried with them on their distant expeditions.[3] Beaumanoir makes a very clear distinction between the two servile classes. "This kind of folk," says he, "are not all of like condition, for there are several degrees of servitude. For some are so subject to their lord that he may take all they have, alive or dead, and their bodies he may imprison, whenever he pleases, whether in the right or in the wrong, being accountable to none but God. And others he treats more gently, for so long as they are alive their lord can ask nothing of them, if they commit no fault, save their quit-rents, and their fees, and their dues, which it is customary to pay in their servitude. And when they die, or when they marry free women, all that they have escheats to their lords, both movables and immovables, and to the serf's children goes nothing if they do not make to the lord redemption of their succession."[4]

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[1] Cibrario, *Économie politique du moyen âge*, i. 33.

[2] Viollet, *loc. cit.*, 271.

[3] Cibrario, *loc. cit.*, i. 35.

[4] Beaumanoir, ch. xiv. (édit. Beugnot, t. ii. p. 233).

In fact, the *tallables* or serfs attached to the soil owned nothing. They could not marry without their lord's consent, and then only among the persons who paid tallage to the same master.[1] Even in the eighteenth century, according to the custom of Troyes, the serfs were tallable, that is taxable at will. Elsewhere in Bourbonnais, at Clermont, they were tallable *at a just will.* The lot of the serfs varied, in fact, according to the province, and, in a general way, the tendency was towards amelioration. After a friendly agreement with their lords, certain serfs passed from the condition of being *taxed* at will (*taillables à merci*) to that of being taxed at a valuation (*taillables abonnés*), wherein they paid only a fixed due, and by this means regained the old position of the Roman *coloni.*

In Burgundy the serfs could possess and transmit lands to their children only on the condition that the latter had lived in community with their parents, and had not left the father's house. The serf's daughter lost her rights of succession if she did not sleep under the paternal roof the first night of her wedding. The serf could neither alienate nor mortgage the heritage subject to mortmain without the lord's consent. The early rule was that the serfs subject to mortmain, in order to succeed each other, should dwell together, forming one of those servile communities which played so large a part during the Middle Ages.[2] At the outset, man was so closely identified with landed property that whoever dwelt upon the lands of a lord without obtaining from him a piece of ground at a quit-rent, became, after the lapse usually of a year, the lord's vassal. Serf-land created serfs.[3] With some variations, the system of serfdom was established all over Europe, Poland included, Russia excepted.

To sum up, feudal serfdom was based on the fact that the possession of an estate was granted to the occupier in return for a certain due. Much has been said about the charms of the feudal system. Now this system is supported from top to bottom on the very principle of serfdom—namely, the granting of an endowment or benefit on condition either of a quit-rent or some personal service in return. In the superior stages of the hierarchy the vassal owed chiefly military service; but often the actual functions of a footman were put upon him, such as serving as a squire to his lord, cutting up his meat before him, bearing his dishes to table, even the preparing of sauces in the kitchen (*administrare saporem in coquinâ*).

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[1] Cibrario, *loc. cit.*, 148.

[2] Viollet, *loc. cit.*, 268, 269.

[3] Cibrario, *loc. cit.*, 36.

It was therefore an organisation universally based on a servitude more or less degrading. So many ridiculous, humiliating, shameful duties imposed upon the commoners show clearly enough what was the mother idea of the system. I recall, by the way, the *droit de marquette*, the *droit de cuissage*, commuted afterwards into money payments, amid the thousand other vexatious duties it would be puzzling to choose for quotation. Sometimes the villeins had to feign drunkenness, sometimes to kiss devoutly the lock of the manor-house, or to take to the castle a song-bird in a coach and four. On Trinity Sunday, the lord of Pacé made all the honest women of Saumur come to his castle, and those who refused to dance there were pricked on the buttocks with a spur marked with the seigneurial arms. In some fiefs absurd skips were exacted, or indecent noises from the mouth and even elsewhere,[1] evidently for the sole purpose of proving that the vassal should submit to the will and pleasure of his master, whatever that might be.

II. *Feudal Property.*

The chief reason of the ease with which the Romans retained their conquests was their habit of often leaving to the vanquished their laws and magistrates. Although a country had submitted, it was said to be free when it preserved its laws; it was enslaved only when it had to obey the Roman magistrates. Now we have seen that in Germany and Gaul it was the system of communal property that prevailed. In Gaul, Rome at first only levied collective taxes paid by the tribes or clans, which were at liberty to share them afterwards among their members, exactly as is done to-day in India and elsewhere. But after the establishment of private property in Gaul, every landowner had personal dealings with the treasury, of which the exactions grew pitiless. The soil was divided into vast estates, often corresponding to the land owned by the old clans, then bearing, however, the names of their private owners. These latter were responsible for the taxes owed by their *coloni*, and Lactantius tells us that the treasury sometimes went so far as to torture the slaves to get information from them concerning the wealth of their masters, who even then united tillage on a large scale with various industries, such as spinning, dyeing, or weaving.[1]

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[1] Cibrario, *loc. cit.*, 38, 39.

It was into this society that the hordes of Germans burst, and from the conflict between the private property of the Romans and the property more or less communal of the barbarians, in short, out of the necessity of the conquerors coming to terms in order to gain a footing in the country, there resulted feudal property and organisation. The Franks distinguished two kinds of landed property: *allod*, *terra salica*, *terra aviatica*, or hereditary property, and the allottable land of the clan. In conquered countries they preserved at first this distinction between the *allodia* and the conquered lands, the *acquisitions* or *conquests*. The allodial lands were transmitted from male to male, even to the fifth generation, to the exclusion of women, after which the inheritance went to the female line (*tombait en quenouille*); but daughters were given a share in the acquisitions, a form of property considered as of lesser worth, not so respectable as the *allodia*, which could be neither transferred nor bequeathed. When the acquisitions were considerable, however, it became impossible to keep them in one person's hands, even by ascribing them to women; it came about naturally, therefore, that they were granted as benefices.

Under the beneficiary system the holder of the eminent domain granted a man the usufructuary enjoyment of an estate, but not gratuitously. The beneficiary became by the very fact of his benefice the vassal of the donor, his suzerain; he was pledged to follow him to war, and usually to pay him various dues. In short, the feudal compact between suzerain and vassal bears a close resemblance to the ancient agreements by which the clans granted privileged shares to certain of their members, who, in return, engaged to undertake special functions or to exercise certain crafts held to be necessary. These grants made by the clans were for life, and so also were all benefices at first. Nowadays, even in feudal Abyssinia, on the death of a vassal we see benefices withdrawn by the suzerain, who grants them anew to whomsoever he pleases. But in Europe there happened what had already resulted in the clans, namely, that the usufructuary holders monopolised their benefices by degrees, and transmitted them by inheritance to their descendants. It goes without saying that all these grants, withdrawals, and transmissions of beneficiary estates took place over the head of the poor serf, who, attached to the soil and sharing its fate, was considered as being more of a chattel than a person. During the few centuries of widespread disturbance that followed in the West on the fall of the Roman Empire, isolation for the individual was equivalent to death; the only person left to depend on himself was the vagrant, always despised, often hunted down. The small landed-proprietors were forced, therefore, to surrender their estates either to powerful men or to the Church, and to become tenants bound by certain services or dues.[1] This is exactly what happens to this day in Abyssinia, where existence is only possible on the condition of being docketed in the feudal pigeon-holes.[2] The system was fully established in the West when Charlemagne confirmed the nobles of his empire in the right of compelling their vassals to follow them to war and to assist them therein, and that of withdrawing benefices in case of refusal. Kings were not the sole dispensers of benefices. Whoever held a considerable portion of the soil could reassign a part of it under the title of benefice. Dukes, counts, marquises, bishops, abbots, and even abbesses did not fail to do this. The small landowners sometimes were content with *commendation*, through which they kept their right to their estates by becoming vassals and doing homage.[3]

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[1] Rambaud, *Civilisation française*, i. 48, 49-53.

About the year 1000 benefices took the name of *fiefs*

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[1] Maine, *Early History of Institutions*, 154.

[2] D'Abbadie, *Douze ans dans la haute Éthiopie.*

[3] Maine, *loc. cit.*, 154, 155.

(feod), and the feudal organisation was then complete. The servile or half-servile crowd, slaves of the Romans and Germans, the *coloni* of the first, the *lidi* of the second, either became servants of the lords, or received lands from them on very humiliating conditions,[1] and were henceforth feudal serfs. The lordly castle served them at need as a place of refuge, but they had to maintain its fortifications, and, if the case required, defend them.[2] Under Charles the Bold, a law declared the benefice hereditary, which at the outset had been for life and revocable;[3] but the duties bound up with the possession of the land remained, the fetters of servitude were not changed. For example, whoever inherited an estate granted with the obligation of military service, was bound to the same form of service.[4]

The structure of feudal society was therefore simple enough. At the apex, the king, theoretical proprietor of all lands in the kingdom, as were in England William the Conqueror and his successors; and then beneath this master the whole scale of the hierarchy, of which the grades went lower and lower by degrees. It was a society in which each was master of those below him, servant of those above him. The primitively allodial form of property vanished gradually in becoming feudal. But landed property was not saleable. Movable goods alone could be sold. The development of property starts off from this moment on the path where, a little more or a little less, a little sooner or a little later, all human societies are bound to go, the path of individualism. They went on to the mobilising of landed property, to put it on the same level by degrees with personalty.[5] The change was long and difficult. Some of the very restrictions established in the Middle Ages against the mobilisation of the soil still exist. Thus, in the reign of Frederic II., crown-lands were declared inalienable, and have remained so.[6] They were placed on a level with dower-lands, over which the husband has no right of property. Furthermore, the villages kept their common-lands inalienable and indivisible in principle. These were chiefly pasture-lands and forests, on which the lords frequently encroached by the right of might. Even the cultivated fields were not safe from their spoliations. William the Bastard, Duke of Normandy, ruined twenty-six parishes of his province to make a forest of thirty leagues. In like manner the forest of Nantes, stretching from Nantes to Clisson, and from Machecoul to Rincé, was founded on the ruins of numerous villages, so that the Duke of Retz might be able in hunting to go from one of his castles to the other.[1]

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[1] Maine, *Ancient Law*, 231.

[2] Cibrario, *Économie politique du moyen âge*, i. 29.

[3] *Ibid.*, 17.

[4] *Ibid.*, 30.

[5] Maine, *loc. cit.*, 283.

[6] Cibrario, *loc. cit.*, i. 90.

In fact, if the nobles, descendants of the German *arimani* and the Latin *boni homines*, were able to find life tolerable within the feudal hierarchy, it was not so with the great mass of serfs. Doubtless the lords owed the serf, or villein, a certain protection; it was their duty, and even to their interest, since they benefited by his labour, but the widest margin was left to the master's whim. In the villages, tallable at will, the lord increased, as he listed, the burdens, the *tailles*, the services, substantial or personal; often he compelled the villages to serve him as security against his creditors.[2] If a peasant cleared a piece of land, heretofore deserted, the lord immediately imposed upon him a new quit-rent, not to mention the thousand personal vexations which the will and pleasure of the powerful may prompt.

III. *Communes and Guilds.*

The forlorn condition in which the commoners found themselves, when face to face with a powerful feudal hierarchy that they had to maintain and submit to, produced its usual effect. As a fact, men only give themselves up to their inborn desire for individualism during periods and in countries in which the autonomy of the individual is more or less respected and secured. In days of peril and times of tyranny man always remembers that he is a social animal, and oppression infallibly encourages combination among the oppressed. Such was the determining cause of the feudal communes, which had moreover for their models the village groups, prior to feudalism and even to Roman domination. At an early time there were attempts at *guilds*, that is, fraternities of which the members swore a mutual protection. From the eighth century we see societies of this kind being formed.[1]

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[1] Hévin, *Questions féodales*, 211.—E. de Laveleye, *Propriété*, 326.
[2] Cibrario, *loc. cit.*, i. 149.

Scarcely had the inhabitants of Oulx in Piedmont emerged, even partially, from serfdom, when they joined together thus in an association which would have grown to a commune if it could have lasted. But it was chiefly in the urban aggregations of some importance that the desire for combination could be indulged. Among these groups princes even might be reckoned, and at first the most powerful among them, afterwards the lesser, were allowed to take the oath to the community (*communiam jurare*). These cities caused their "good customs" to be acknowledged and duly set forth, and they obtained for their inhabitants the right of personal franchise, also those of bequest and succession. They succeeded in reducing their taxes, which the suzerain had up to that time been able to modify or increase at will, to a minimum, fixed once and for all. Lastly, they were at liberty to arm themselves in defence of their rights and possessions.[2] Very often these towns, when but half enfranchised, held important communal estates. They preserved the waters, woods, and pasture-lands undivided.[3] Other communal estates, still more important, were formed at the prompting and for the profit of the Catholic priesthood. Legacies to abbeys and bishoprics became usual, almost obligatory on those who did not wish to die unconfessed, and soon the outcome of this was the formation of vast estates under mortmain, never divided and always increasing. From the end of the ninth century, a third of the lands in Gaul belonged to the clergy.[4]

At length, side by side with the rural or clerical communities, the industrial communities were formed, trade guilds, such as exist still in China, India, and elsewhere. The organisation of these guilds was in Europe not more liberal than that of their counterparts in Asia. Within them grades of masters, companions, apprentices were developed. The freedom of the guild was not to be had without difficulty, and in the end it was placed beyond the reach of the greater number, whence the formation of a labour proletariat, very similar to our own. The Corporations were close, jealous of each other, and subject to minute regulations. People out of work were banished from the town. The number of apprentices was fixed, and to become an apprentice it was necessary to be a burgess, or the son of a burgess. The length of the working day was regulated by the official hours, and on Saturday work stopped at noon. Payments in kind were forbidden; wages had to be paid before witnesses and in "hard cash." At St. Omer the masters were forbidden to sell commodities to their workpeople, an abuse of which workers often complain now. Lastly, they endeavoured to equalise the position of the manufacturers, to prevent competition, to maintain the level of manufacture, and to regulate production.[1] All this was far from bad, and in certain aspects it even corresponds to what we hear demanded to-day; nevertheless, it was greatly lacking in individual liberty. The old working guild inspired the spirit of communism, but it understood it only in a narrow sense, for the benefit of certain groups, even of certain fractions of groups. It is so true that union is strength, that, despite all their defects, the workers' guilds often became powers, especially in Flanders and in Italy. At Florence the arts or companies succeeded in overruling the nobles, and even in oppressing them. In that city feudal hierarchy ended by being inverted in the strangest way. In order to retain some civil rights the noblest citizens were driven to implore the favour of being enrolled in the company of the wool-staplers or of the carders. Sometimes the individuals who had distinguished themselves by pillaging and setting fire to the houses of nobles were created "knights of the people."[2] The titles of "nobles" and "great" became epithets of contempt. Nobility was even conferred upon certain plebeians of evil repute, so as to exclude them from public offices. Indeed, for a while the title of "great" entailed the loss of all political right: it was a punishment. We read in the statutes of the republic that "greatness" was attained *pro homicidio, pro furto, pro incestu.*[1]

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[1] Cibrario, *loc. cit.*, i. 55.

[2] *Ibid.*, 93.

[3] *Ibid.*, 110.

[4] E. de Laveleye, *Propriété*, 112.

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[1] A. Giry, *Hist. de la Ville de Saint-Omer*, 346-350.

[2] Cibrario, *loc. cit.*, i. 98.

Communistic organisation played therefore an important part in feudalism, but it assumed various forms. At first there were the peasant communities, survivals of the village communities. The lords even freely encouraged the formation of these rural communities, which offered greater security for the payment of dues, or the carrying out of forced labours, and often before granting certain concessions to the peasants they demanded that a community should be formed.[2] Then came the clerical communities, so wealthy and influential; and lastly, the industrial guilds, the communities of the arts and crafts.

IV. *Transmission of Property, Commerce, etc.*

During the Middle Ages, the principle and the applications of the right of eminent domain were directly contrary to the establishment of Quiritarian property. The sovereign was accounted the proprietor-in-chief; benefices which he granted he could retract, and confiscation too, under Justinian used to punish only treasonable crimes, was widely practised during feudalism. It is well known that the French Convention itself made large use of this right of the Crown, which even figures in the penal code of 1810, and was only definitely abolished by article 66 of the Charter, in 1830. The existence of the savage right of treasure-trove, of flotsam and jetsam, again reminds us of eminent domain. This right was exercised even over river banks. An ordinance of 1319 declares that "the King of France shall have two-thirds of the wrecks which shall befall on the shores of the Garonne and the Tarn, and that the other third shall belong to the abbots and monks of Moissac."[3] But it was the death of a vassal which, above all, affirmed the suzerain's right of eminent domain. In law the reversion of the benefice, the fief, to him who gave it was never discontinued. The heir of the vassal had to receive his investiture from the sovereign, and on that occasion to discharge the so-called right of *relief*. For a long time it was necessary for him to buy back his land, and on the marriage of his daughter, his sister, or of his sister-in-law, to further pay a large sum to the suzerain.[1] In his turn the beneficiary indemnified himself at the expense of his inferior vassals, on whom he levied the same dues under similar circumstances.[2]

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[1] Cibrario, *loc. cit.*, i. 97, 98.

[2] E. de Laveleye, *Propriété*, 225.

[3] Desmaze, *Curiosités des anciennes justices*, 315.

As a matter of course, the lords strove to increase their right of property over fiefs. In France, under the Capets, they succeeded in this to a large extent, and from that time, land, instead of being a precarious grant, depending on the royal will and pleasure, became private property, from which the holder took his name.[3]

By reason of its very nature feudal property could not for a long while have been left by will, unless with the special authorisation of the suzerain, who held the right of investiture. But the right of primogeniture was soon established among the nobility. The chief obligation of a vassal being to help the suzerain in his wars, as a matter of course the eldest son succeeded before his younger brothers to the duties, and in consequence to the advantages attached to the fief. Later, what was customary became legal. As for the lands held ignobly, that is, by means of ready money or labour, it was usual to share them equally among the sons.[4] In Keltic countries the right of the elder was sometimes even replaced by the *droit du juveigneur;* the youngest son succeeding the father after the elder ones had gone away or had set up for themselves. The persistence of the clan system in Keltic countries is surely the reason why this right of ultimogeniture came into existence.

Long after the lands had become the property of families, the power of alienating them had not yet arisen. Later, it was decided that only a part of the land should remain inalienable. Thus the custom of the *vol du chapon* entailed in families all the area that "could be covered by the flight of a fowl."[1] In Poland, where rank was inseparable from landed property, where the rule was "no noble without land," alienation of lands was even in the sixteenth century only permitted to men admitted to be sterile.[2] A father could part with his land only with the consent of the sons and "agnates," and these had the right of redemption over all possessions sold or pledged.[3]

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[1] Cibrario, *loc. cit.*, i. 124.

[2] *Ibid.*, 38.

[3] Rambaud, *Civilisation française*, i. 122.

[4] Maine, *Ancient Law*, 232.

We have seen that the early law of the Germans disinherited women. The Germanic woman had a master always—father, husband, son, guardian, etc. But this principle of absolute dependence of the woman, at first accepted in the feudal system, was slowly undermined and weakened; it no longer applied to any but married women,[4] and even in some French provinces married women, not noble, might dispose of their possessions within the limits allowed by Roman law.[5] In the thirteenth century the dawn of tendencies to emancipate woman is seen here and there. In Touraine-Anjou a woman in business for herself could bring a civil action without the permission of her husband.[6] In 1308, in Touraine, women took part in a village election for the States-General at Tours. Some widows and spinsters, possessing in severalty, figured in the elections for the States-General of 1560 and 1576.[7]

In all times, and in every country, it is by movable goods that progressive personalisation of property begins, that the desire for private property is assured and indulged. It was so in the Middle Ages. The rights of the widow and of the children upon the estate were determined. They could not be touched, but movable estate or personalty was generally considered as belonging to its possessor, who was free to dispose of it by will.[8] Now with time these personal estates became more and more considerable. Savings could accumulate; perpetual warfare often awarded valuable prizes or shares in booty; furthermore, the general custom of ransom made it possible to coin money at the spear's point. Desire and the hope of gain in the end even changed battles into almost harmless tournaments.

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[1] Meyer et Ardant, *Question agraire*, 33.

[2] *Ibid.*, 197.

[3] *Ibid.*, 187.

[4] Viollet, *Histoire du droit français*, 243.

[5] Maine, *Ancient Law*, 158.

[6] Viollet, *loc. cit.*, 248.

[7] *Ibid.*, 249.

[8] Maine, *loc. cit.*, 225.

Good armour most often offered resistance to blows dealt, not to slay the enemy, but merely to unhorse him. Battles that had lasted a whole day ended without having cost any one his life, or with two or three slain.[1] Guicciardini, in writing of the battle of Fornovo, says: "*Fu la prima che da lunghissimo tempo in qua si combattesse con uccisione e con sangue in Italia, perchè, innanzi a questa, morivano pochissimi uomini in un fatto d'arme.*" The love of gain is capable of everything, even of inspiring apparently humane sentiments.

But the main sources of personal possessions were, in mediæval Europe as elsewhere, commerce, trade, and speculation. From the thirteenth century, celebrated manufactures of cloth existed in the Netherlands, Picardy, Languedoc, etc. In Paris, in the reign of St. Louis, there were more than one hundred and fifty companies of arts and crafts. In 1338 Florence reckoned two hundred cloth manufactories, turning out every year seventy thousand to eighty thousand pieces, of which the value exceeded 200,000 florins (about £1,000,000). More than thirty thousand persons lived by this industry. The Florentine art, called Kalimala, retouched, redyed or dressed the fine cloths brought from France, Flanders, and Brabant, and then the goods were resold in Italy, and beyond the Alps. This art of Kalimala brought in yearly from the foreigner more than a thousand pieces of stuff, worth about 30,000 florins.[2] The majority of the Italian and European cities vied with one another in the same direction, and strove to enrich themselves by some industry or another. The outcome was an important commercial movement, whence the creation of great personal wealth.

The transport of goods was then a large and costly business. At every step, as it is still among the negroes of Central Africa, at every town, at every castle, toll had to be paid. The better to resist the exactions and harassings of the nobles, the merchants of each country formed themselves into companies, which treated with the princes and barons, obtaining from them safe-conducts or *guidages*. It was stipulated, for example, that the roads should not be infested with malefactors, etc.[1] At this epoch the Hebrew bill of exchange was largely used; but it lent itself to speculations and frauds that were sometimes ruinous.[2] The Jewish bankers, and those of Cahors, the *Caorsins*,[3] became a force. Stock-jobbing, money-changing and usury began their ignoble work. They inaugurated the reign of money, preserving meanwhile certain absolutely uncivilised practices; for example, the pecuniary solidarity of all the inhabitants of the same country. If by chance a Genoese was the faithless or insolvent debtor of a Pisan, the commune of Pisa granted the creditor "letters of marque and reprisal," by virtue of which he could seize and despoil all the Genoese who fell into his hands until the commune of Genoa had indemnified him. Princes did likewise in their dealings with the towns.[4]

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[1] Cibrario, *loc. cit.*, i. 185.

[2] *Ibid.*, ii. 253-265.

I call attention, in passing, to these customs, true survivals of a primitive savagery, of a time when each kindred clan made up a collective personality, that is, a social state no longer to be met with in all its entirety save in Australia. Although it is a notorious fact, I will note briefly that this great industrial, commercial, and financial movement was the chief reason which determined the formation of the communes, and consequently shook the entire feudal edifice. But its less noble results were to excite greed, to impel into being a moneyed aristocracy, to bestow on wealth an excessive importance, which showed itself here and there by the brutality with which the poor were treated. Thus the parliament of Paris caused to be hanged within twenty-four hours, without any other form of trial, all the poor who did not return to their homes. Measures equally atrocious were taken in England against vagabonds, and that as late as the reign of Elizabeth.[5]

During the last period of the feudal age, when the fief had become private property and hereditary, when vassalage was not much more than a question of forms and ceremony; when industry, and afterwards commerce and banking, created important movable values; when the banker, whether Jew,

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[1] Cibrario, *loc. cit.*, ii. 256.

[2] *Ibid.*, ii. 254.

[3] *Ibid.*, i. 154.

[4] *Ibid.*, i 143.

[5] Lecky, *History of European Morals*, etc., ii. 96.

Caorsin, or Lombard, was raised to the ranks of the powerful, feudalism received its death-blow; money became extremely respectable, and rich citizens waxed powerful in the face of a waning nobility. This ever-preponderating part played by money had, however, good effects. We have seen that upon the battlefield it curbed the ferocity of the conqueror. Elsewhere, by degrees, it almost abolished the serfdom of early times, at least in practice. By means of ready money, rent, or industrial service, the lords slowly freed their serfs. Thus, in the twelfth century, there was no longer any serfdom in Normandy.[1]

Finally, to keep their great vassals in check, the kings established free towns and communes, whither they attracted their neighbours' serfs. By an ordinance of 1315, Louis X. freed all the serfs on the royal domain. "According to the law of nature, every one ought to be born free (*franc*), and our kingdom is called the kingdom of the Franks."[2] The serfs were enfranchised very irregularly, according to the provinces or estates. Voltaire was still able at the end of the last century to undertake the defence of the ecclesiastical serfs of the Jura. But, nevertheless, at this date serfdom in the strict sense was exceptional, at least in France. The right of property had also become less feudal; it was slowly approaching the Quiritarian form. At the same time small proprietorship was developed. All was ripe for transformation. The French Revolution brought it about by striking to the heart the very principle of feudalism; by substituting for fiefs Quiritarian property, freed of all public claims, and declaring it inviolable, almost sacred; by breaking all the bonds which, from top to bottom of feudal society, had sometimes joined, sometimes chained, men to one another; in a word, by giving elbow-room to individualism.

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[1] Rambaud, *Hist. civilis. française*, i. 258.

[2] *Ibid.*, 260.

CHAPTER XVIII.

INHERITANCE.

I. *Inheritance in Republican and Monarchic Tribes.*—Personal property alone transmissible—Such property often destroyed, or "killed"—Votive offerings—Inheritance of personalty in Australia—Various modes of succession—Inheritance of personalty among the Redskins—Inheritance through the mother among the Iroquois, Hurons, Choctaws, etc.—Among the Mexican tribes women disinherited—Nepotic succession in Africa—Various systems—The king as heir-in-chief—Inheritance among the aborigines of Bengal—Among polyandrous tribes—Different modes of inheritance—Rights of the "junior"—Development of the right of inheritance.

II. *Inheritance in Primitive Barbarous States.*—In ancient Peru—In ancient Mexico—In ancient Egypt—Among the Tuaregs—The Malays—The Hebrews—The Arabs—The Kabyles—The Kabyle woman and the right of succession.

III. *Inheritance in China and India.*—In China woman excluded—Primogeniture in China—Succession through the mother among the Tamils—The Indian joint-family indivisible—The right of the elder in India—Daughters excluded—Their dowry; their property.

IV. *Inheritance amongst the Greeks and Romans.*—Solon's laws disinherit daughters—The law of the Twelve Tables and *gentile* inheritance—The *heredes sui*—Plebeian right of succession.

V. *Inheritance in Barbarous Europe.*—Among the Cantabrians—Irish *gavelkind*—*Tanistry* among the Irish chiefs—Inheritance in the Russian *mir*.

VI. *The Germans and Feudalism.*—The common *mark*—Salic land descends from male to male—Right of primogeniture—Inheritance of *allod* and *acquisitions*—The fief and primogeniture—The serf's right to inherit—Legacies to the church.

VII. *The Will.*—The will in Tahiti—According to the Koran—The will unknown to the Hebrews—Bequest regulated in Kabylia—The will in the laws of Solon—The will at Rome—Its regulation—The will in the Middle Ages.

VIII. *Development of the Right of Inheritance.*

I. *Inheritance in Republican and Monarchic Tribes.*

My duty as evolutionary sociologist being, concerning all important problems, to go back as nearly as possible to their sources, I shall first examine, with regard to the subject of inheritance and its various methods, the savage populations, beginning at the humblest.

The few important data which stand out from the preceding facts quoted on the subject of property and its development have already suggested to us certain general views concerning inheritance in savage countries. The non-agricultural tribes, or those who pursue a rudimentary and nomadic agriculture only as an accessory, do not possess landed property, as it is understood in our civilised society. Their hunting-grounds are common property and cannot be divided. They are the source of life, the larder of the tribe, their country in the highest sense Outside this territory there is no salvation, for the neighbouring and rival tribes will not tolerate intrusion on their lands; each one of them defends its own *unguibus et rostro.* All have a keen sense of collective ownership, and poaching is with them a capital offence.

At this stage of social development we saw that private and transmissible property could not be represented by anything but movable objects belonging to the deceased, because, most often, they have been manufactured by him. To this pre-eminently personal property must be added the human beings owned in a similar way as chattels—slaves, where there are any, often the children and women. The death, therefore, of a member of the clan cannot open up any right of succession to the hunting district possessed and defended in common. As to the petty personal property, living or otherwise, men's ingenuity was often taxed to transmit it to the shade of the departed. To effect this, care was sometimes taken to *kill*, by breaking, burying, or burning with him, his arms and personal belongings, and to sacrifice his wives and slaves on his grave.[1]

Love of property, however, the instinct of preservation, quickly enough set bounds to the practice of such generosity at the obsequies. Good weapons are good to keep, especially if the deceased has during his lifetime made glorious use of them. The slaves, even the wives, provided they were young, were also of value. In the end, therefore, everything was preserved, and the great question of inheritance then unfolded itself. As to the shades of the dead, who were readily accredited with evil intentions, and who might perhaps be disappointed by such egoistic behaviour, the idea often occurred of appeasing them by a pretence of restitution; hence came votive offerings of no value. This is why small and perfectly useless votive axes are so frequently met with in the funereal accessories of neolithic interments; this, too, is why in southern China they burn, close to the graves, small paper houses, paper clothing, tiny bedaubed models of chariots harnessed with mules, palanquins, etc.[1]

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[1] Williams, *Fiji and the Fijians*, i.—Mariner, *Tonga Islands*, ii. 137. —M. Radiguet, *Derniers Sauvages*, 226.

The first stage of inheritance is to be found to this day in Australia among the tribes that have best preserved the early organisation of the communistic clan, among the Kamilaroi and Kurnai for example. In these tribes personal property is strictly limited to weapons, tools, clothing, and ornaments; but these things are usually buried or burned with the deceased who owned them while living.[2] As to the landed property, it is communal and inalienable; each generation enjoys only the use of it.[3] When the trifling personal property is not destroyed, it is generally transmitted in the maternal line. The clans are exogamic, and the children of a Kumite (Kamilaroi) cannot inherit from their father; they do not belong to his clan. The personal belongings of a man of the Kumite clan go, therefore, to the children of his sister.[4] But the majority of the Australian tribes have not kept the organisation, in a certain sense archaic, of the Kamilaroi; therefore among them the women are generally disinherited, and the personal belongings are transmitted to the male relatives. Among the Narrinyeri property already passes from father to son.

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[1] M. Paléologue, "Sépult. chinoises" (*Revue des Deux Mondes*, 1887).

[2] Fison and Howitt, *Kamilaroi and Kurnai*, 249.

[3] *Ibid.*, 129.

[4] *Ibid.*, 129.

If a man dies without offspring, his personal effects go to the son of his brother.[1] Sometimes there is a compromise between the paternal and maternal branch, but always to the exclusion of the women, who, besides, could not use the weapons or tools peculiar to the men. Thus, in the tribe of the Wolaroi, when a man dies, his boomerangs, javelins, waddies, etc., are divided among his sons and brothers-in-law.[2] Elsewhere, however, the division is made between the wife and children.[3] Lastly, the right of primogeniture has already appeared among certain tribes, especially among the Tatiaras and others of the south-east.[4] In short, the outlines of all the chief methods of succession are already to be met with in Australia.

With the exception of the right of primogeniture, these various forms of succession are to be found among the Redskins also. The most precious personal belongings accompanied the deceased to the grave, and we have seen that, like the Vitians and other Polynesians, the Redskins sometimes went through the ceremony of *killing* these articles. The rest of the personal property (there could be no other) was shared among the members of the clan, but chiefly among the nearest of kin.[5] Among the Iroquois maternal succession appeared, and the greatest part of the personalty left by a man went to his sisters and to their children, as well as to the maternal uncles. In the case of a woman leaving behind her a husband and children, it was the mother and sisters who inherited.[6] Among the Selish of Columbia, where wealth consists chiefly of flocks and horses, the inheritance is still collateral, or rather *gentile;* relatives, members of the kindred clan, take possession of the deceased's property, without regard to the children.[7]

In all places where the maternal family has separated from the clan, inheritance tends at first to go in the maternal and collateral lines. So it was, according to Charlevoix, among the Hurons, with whom the dignity of caçique passed to the son of the sister or next of kin in the maternal line.[1] Among the Navajos the possessions of the husband and those of the wife are distinct, but after death they go to the nephews and nieces.[2] A few years ago a Choctaw Indian expressed a wish to become a citizen of the United States, so that he might be able to leave his children the property which, in accordance with Choctaw custom, should pass to his sisters or their children, and to his brothers.[3] In the Pueblo of Orehbe the husband has no rights over either his children or his wife's property. It is the deceased wife's relatives to whom are given the children of the dead woman, and also whatever belonged to her, the man being left with only his horse, clothing, and weapons.[4] But among the wild tribes of Mexico the development of the right of succession has made a step in advance: the women are disinherited, and, failing heirs male, the inheritance falls into the hands of the brothers or the nearest male relatives.[5]

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[1] *Native Races of South Australia*, 51.

[2] *Folklore, Manners*, etc., 62.

[3] *Ibid.*, 51.

[4] *Ibid.*, 58.

[5] L. Morgan, *Ancient Society*, 528.

[6] *Ibid.*, 530.

[7] Bancroft, *Native Races*, etc., i. 273.

In Black Africa, where clan organisation is generally more or less destroyed, but where maternal affiliation still greatly prevails, succession which may be termed *nepotic* is extremely common. In the region of the Great Lakes, the Wamrima, Wazegura, etc., look upon their sisters' sons as the most certain representatives of their blood; they also exercise over them the right of *patria potestas* in all its severity, since they can sell or even kill them, if they please. In this region too, a man's inheritance is often claimed by the sons of his sister.[6] In the land of the Wanyamwezi the child of a woman inherits the purchase-money paid for her by her husband; but if she die without offspring the widower claims from his father-in-law the restitution of the price paid.[7] On the Gaboon river children do not inherit from their parents; transmissible possessions are acquired by the brothers, or, failing these, by the uncles or cousins; the sons only come in afterwards. Not only are women disinherited on the Gaboon, they are also bequeathed. They form indeed, together with the slaves, the most valuable portions of the inheritance. The rest is of no account: the hut of the deceased is knocked down or burnt; tillage is nomadic. The only movable objects of importance are the weapons and personal belongings, which are shared among the male heirs.[1]

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[1] Charlevoix, *Journal d'un Voyage*, etc., t. v. 395.
[2] Bancroft, *loc. cit.*, i. 505.
[3] Giraud-Teulon, *Orig. Mariage*, 444.
[4] Morgan, *Ancient Society*, 535.
[5] Bancroft, *loc. cit.*, 664.
[6] Burton, *Lake Regions of Central Africa*, i. 37, 38; ii. 23.
[7] *Ibid.*, ii. 23.

On the other hand, in some tribes in the region of the Great Lakes, the right of primogeniture is found in full force, at least for the chiefs, whose power is transmitted to the eldest son, whilst other neighbouring tribes prefer to choose as chief the son of the dead chief's sister,[2] as is also the habit among the Kafirs. There is, therefore, no uniformity of succession in Africa, even in a given region. Lastly, there is a great cause of disturbance of the customs connected with inheritance in Black Africa, in the exorbitant power of the chiefs, petty kings who do not hesitate about taking everything. At Timbo, in the Footah-Djallon, when a man dies the king begins by confiscating everything that belonged to the deceased; then, if he is a good prince, he condescends to make the children presents.[3] Whoever is acquainted with the phases of family development cannot be astonished at the close analogy existing between the various modes of succession among races the most diverse. Everywhere, in fact, the different forms of the family follow each other in the same order, and to them those of the right of inheritance necessarily correspond.

In this respect, the aborigines of India, who have now to be examined, conform on the whole to the general law. Inheritance in the female or collateral line is not rare. Among the Kochs at the death of a woman the property passes to her daughters.[4] But it is important to observe that nearly all the aborigines of Bengal are husbandmen, and that the Koch women take upon themselves all the laborious work. In the Garo tribes the masculine and feminine interests have been reconciled by a compromise. When a man dies it is a male heir that succeeds; but the widow has to remain mistress of the house. To this end the heir takes her to wife, and as she is generally old, he has the right of marrying her daughter at the same time.[1] Among the Buntars, in Tamil territory, a man can make gifts during his lifetime to his children, but at his death all that he owns is inherited by his sisters and the sisters' children.[2] Among the Yerikalis, in the south of India, we still find, though weakened, the right of the maternal uncle over his nieces. It is no longer, doubtless, the right of life and death, as in Africa, but merely a kind of right of matrimonial pre-emption; a man claims for his sons the two eldest daughters of his sister.[3] Sometimes also, still as in Africa, the chief's power is transmitted, not to the son of the deceased chief, but of his sister. Thus it is among the Jyntiahs and the Khasia tribes of Bengal.[4]

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[1] Du Chaillu, *Explorations and Adventures in Equatorial Africa.*

[2] Burton, *loc. cit.*, ii. 364.

[3] Sanderval, *Foutah-Dja'lon*, 171.

[4] Dalton, *Ethnology of Bengal*, 91.

In the countries where polyandry prevails, inheritance goes sometimes in the female line, and sometimes in the male. At Ladák, when the eldest son marries, that is, chooses or rather buys a wife, who is the common property of himself and his brothers, the paternal possessions are transmitted to him on the condition of his maintaining his polyandrous relatives. Should he die, his next younger brother inherits his authority, the control of the property and the other husbands. The wife remains communal, as before; she only has one husband less.[5] Among the Naïrs, a people still more polyandrous, the men have as heirs their sister's children, sons and daughters, but the personal effects alone are shared in this way. The landed property belongs to the family, and the wife is the occupying owner. At her death it is transmitted to the eldest daughter, or, failing such, to the eldest sister.[6]

Inheritance in the direct male line is far from being rare in uncivilised India. Among the Mundas, the personal property is divided equally among the sons; the daughters are included in this property, and are shared like cattle.[7]

[1] Dalton, *loc. cit.*, 54.

[2] McLennan, *Primitive Marriage*, 170.

[3] Shortt, *Trans. Ethn. Soc.* (new series, vol. vii.).

[4] Dalton, *loc. cit.*, 54.

[5] Moorcraft and Trebeck's *Travels*, i. 320.

[6] McLennan, *loc. cit.*, 147.

[7] Dalton, *loc. cit.*, 200, 201.

Among the Kandhs, likewise, the sons share equally.[1] We find once more the right of primogeniture among the Singhphos. The eldest inherits all the landed property and the titles; the youngest son gets the personal effects; the intermediary brothers being excluded from the succession.[2] This fact is especially curious on account of the combination to be found in it of the right of the eldest and the right of the youngest (*droit du juveigneur*). It may be remembered that among all populations landed property is seldom alienable; it belongs either to the clans, to villages, or to families;[3] consequently the transmission of real estate confers usually only the right of usufruct. The right of the youngest is not peculiar to the Singhphos; it is still to be found among the Mros of Arrawak, among the nomadic Tartars, where the youngest son inherits the paternal estate, that is, the flocks and movables; the older sons have swarmed out of the paternal tent, taking with them the herds which their father assigned to them. Furthermore, this same right has existed, as we have seen, among the Keltic tribes of Cornwall, Wales, and French Armorica.[4]

I have had occasion many times to remark how little difference there is, during the early phases of sociological development, between the races styled inferior and superior. But it is chiefly in what bears on property that these fundamental analogies become striking. They bring into prominence all that has gone before, and perhaps are still more convincing in all that bears on inheritance.

Within the brief digression that we have just made among so many populations, little or not at all civilised, from the brutish Australian to the polygamous Naïr who holds a certain rank among barbarous peoples, the gradual development of the right of succession already stands out. First it is the clan that is owner-in-chief. During this period no one inherits; the young simply take the place of those who die. Then certain movables are allowed as personal property, and an attempt is made to send them with the dead into a future life. Later on, man thinks better of this;

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[1] Dalton, *loc. cit.*, 294.

[2] *Ibid.*, 13.

[3] Lewin, *Hill-tracts of Chittagong*, 194.

[4] *Acad. sciences morales et polit.*, 5 Octobre 1878.

the useful relics are kept and shared. This happens chiefly when the maternal family is freed from the clan, and at that time succession goes in the collateral and female line. Later on, with the establishment of the paternal family, the inheritance passes to the sons, to the exclusion of women. Lastly the right of primogeniture asserts itself; thenceforth the eldest son succeeds his father, and inherits in preference to the others. But this is nearly always a period of monarchic sway, and the chief caçique or petty king claims for himself the right of eminent domain formerly belonging to the community, interferes by violence in questions of inheritance, and often appropriates the lion's share.

Numerous traces of this development persist in more advanced sociological stages, especially in barbarous states grafted immediately on savagery, and serving as a connecting link between entirely savage societies and states more or less civilised.

II. *Inheritance in Primitive Barbarous States.*

A. *Central America.*—The ancient states of Central America were, of all the great barbarous societies, those which were still most directly and most strictly united with the early savagery out of which they had emerged. In Peru we have seen that arable land was allotted in equal shares among the husbandmen. It was an agrarian community controlled centrally. When a man died, the community merely took back the share that had been his and assigned it to another. But within the royal family of the Incas right of primogeniture was already in practice, since the throne devolved on the eldest son of the *coya*, the legitimate wife, the head woman. The idea, however, derived from the savage period, of transmitting to the shade of the deceased monarch belongings of all kinds which he had enjoyed during his lifetime, was still kept up. Thus, on the death of the Inca, his palaces and dwelling-places were closed for ever. All the things that had belonged to him remained intact, in the condition in which he had left them, and hundreds, sometimes thousands, of attendants, concubines, and favourites were immolated for the purpose of escorting their master to the Peru beyond.[1]

In Mexico social and political development was more advanced; a kind of feudal system had been established, but property arrangements varied according to class, even according to province. Certain plebeian groups held land in common or still practised allotment, and the portions of land granted to families returned of course to the community on the death of the grantee. Where the land was let to farmers, as in the province of Panuco, the eldest son alone inherited, no doubt because he was generally the most fit to fulfil the duties that had been imposed upon his father.[2] In Zapotecan and Miztecapan landed property was invariably transmitted from male to male, the women being excluded from succeeding.[3] In Yucatan, when a man died, his land, or rather the usufruct of his land, was granted equally to his sons. The daughters were disinherited, and their brothers showed them such charity as they felt inclined.[4] As to the fiefs granted by the Crown, they were transmitted from male to male, but with the sovereign's investiture, as is usual in all feudal systems.

B. *Egypt.*—In this brief survey of mankind from the point of view of the transmission of property, I have cared less for race, country, and chronology than for the comparison between social states; it is therefore allowable to leap from Central America to ancient Egypt, which was analogous in so many points to the Peru of the Incas.

We have seen how in Egypt Sesostris made a general allotment very similar to the system in Peru, and we know besides, that of the lands belonging to the villages, only the plots on which houses were built were personal property, the remainder being subject to annual allotments.[5] In consequence, as regards the greatest part of the arable land, the death of the occupiers set free only a portion of the public estate, which was at once assigned to another member of the community. The dwelling-house and the personal effects were inherited in our fashion; what characterised the system was the right of succession granted to the daughters. These latter had the same rights of inheritance as all the other children, whether legitimate or not, at the father's death, at least up to a relatively recent date;[1] but it seems clear that in early times, when the maternal family was at its height, they succeeded in preference to the males, or at least with certain advantages over them, since the law imposed on daughters, and on them only, the duty of succouring their aged parents.[2]

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[1] Prescott, *Conquest of Peru*, 15.

[2] Bancroft, *Native Races*, etc., ii. 230.

[3] *Ibid.*, ii. 228.

[4] *Ibid.*, ii. 653.

[5] Mesnil-Marigny, *Hist. économie politique*, i. 223.

C. *Tuaregs.*—It is probable that the mode of succession in ancient Egypt resembled that of the Tuaregs of the Sahara as it is to-day, these being in all likelihood descendants of those Berber races who formerly helped so much in founding the kingdom of the Pharaohs. Now it has been shown that among the Tuaregs of the Saharas, at the death of a man who is the head of a family, all the possessions called *lawful*, that is, acquired by labour, are shared without regard to sex among all his children. Only the goods called *unlawful*, that is to say, conquered by force of arms, come to the eldest son of the eldest sister.[3] This is a custom springing evidently from the maternal family. Perhaps, too, the wealth which seems to have been common enough among the women of ancient Egypt, resulted chiefly, like that of the Tuareg ladies, from the fact that, although inheriting, they contributed nothing towards the household expenses. In regard to the Tuaregs, I am speaking only of personal property. The other kind, lands in the oases, seems to consist of family estates neither alienable nor divisible, and in the use of which the free women no doubt enjoy their share.

D. *Malaysia.*—The hereditary transmission of joint rights in the family property is much more general in Malaysia, but there everything is done under the patronage of the village communities, which have preserved the right of eminent domain and make use of it. In connection with the Javanese *dessa*, it has been told how the dwellings and their precincts alone are hereditary property, and on what conditions. Under limits imposed by the village community Javanese inheritance is family and collective, and often goes in the maternal line. The division of property in the maternal family, "offspring of the same womb," is forbidden by custom, by the *adat.*[1] Nevertheless, the wealth inherited may be assigned to one of the children, to the eldest boy or girl, who indemnifies the others. The Javanese wife does not inherit from the husband, but receives a third of his substance as sufficient for her support.[2]

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[1] Wake, *Evolution of Morality*, i. 223.

[2] Herodotus, ii. 35.

[3] Duveyrier, *Touâreg*, etc., 396, 397.

But in Malaysia there is no uniformity; the Malay family is evidently in the process of transformation, and maternal affiliation is being broken down by the tendencies towards the paternal form. In general, however, it is the first that still prevails. Wherever it is intact, the head of the family is, if possible, the maternal uncle, and on his death he is succeeded by the eldest son of the males of the maternal *samendei.* Failing him, the mother takes control of the family. When a Malay dies, his personal effects usually go to his mother's family.[3] As a rule, cleared lands are regarded as belonging to him who has tilled them, and he can dispose of them, provided he tells the head of the family beforehand.[4]

These ancient customs are, or were not so long ago, disturbed by the greed and extreme power of the rajahs, who, on the death of a man, seized not only his possessions but also his wife and children, whom they reduced to slavery.[5]

E. *Semites.*—The petty Malay kings are usually Muhammadans, and they push to an extreme the Islamite principle which assigns the possession of all things belonging to God, in heaven and earth, to his representatives, the sovereigns. But in the majority of Muhammadan countries the right of eminent domain is not taken in so wide a sense.

In the Semitic world the system of the paternal, even patriarchal, family has prevailed from time immemorial. Thus, the Bible admits of three classes of heirs: the children, agnates and *gentiles.*[6] There is no ascending succession; the father does not inherit from the son, nor the grandfather from his grandson.[1] The daughters inherit in default of brothers, but then they are fettered to the patrimony, and have to take a husband within their tribe.[2]

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[1] E. de Laveleye, *Propriété Collective à Java.*

[2] *Ibid.*

[3] Giraud-Teulon, *Origines du Mariage*, 200.

[4] E. de Laveleye, *Propriété*, 53.—*Propriété Collective à Java.*

[5] *Voy. Compagnie des Indes-Orientales*, etc., i. 348.

[6] Numbers, xxvii. 8-11.

One fact is noteworthy; this is that there was no right of primogeniture among the Hebrews; nor was there any among their congeners, the Arabs. Muhammadan law bade all the children inherit; but it granted to the sons a share double that of the daughters. Contrary to the Jewish custom, ancestors inherited among the Arabs. "When," says the Koran, "ye feel death nigh, it is ordained that ye leave, *by will*, your wealth to your father, your mother, and your nearest kin. . . . God commands that, in the sharing of your goods, to the sons is to be given the share of two daughters. If there are only daughters, they shall have two-thirds of the inheritance; if there be but one, she shall receive the half. The father and mother of the deceased shall have each one-sixth of the inheritance, if he has left a child; if not, and his ancestors succeed, the mother shall have one-third; if he leave brothers, the mother shall have one-sixth after payment of debts and legacies."[3]

These provisions of the Koran have caused heirs to be divided into two classes:—1st, the residuary legatees—namely, the male descendants, the father, failing the son, the brothers by blood, and in their default the uncles and cousins on the father's side; 2nd, the heirs-in-waiting—namely, the father, who receives one-sixth when there are sons; surviving couples, who enter in the succession, the husband for one-fourth if there are children, and the wives for one-eighth, which they divide if there are several of them. Co-heirs of equal degree have so much each, but the men's share is always double that of the women.[4]

As a rule, at least among the nomadic Arabs, the sharing of an inheritance takes place peaceably, in a friendly way, either with the Emir's interference, or according to an estimate made by common friends. It is needful to remark that for nomads there exist only movable goods—cattle, tents, furniture, etc.—the sharing of which takes place immediately after the funeral.[1]

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[1] L. Morgan, *Ancient Society*, 547.

[2] Numbers, xxxvi. 6-9.

[3] Koran, Sura, ii. and iv.

[4] Jomard, *Arabie*, 215, 216,

In Muhammadan law the share given to women in an inheritance forms, modest as it is, an honourable and noteworthy fact. In truth, it is most usual in countries still barbarous, and where the patriarchal family is established, to sacrifice the women's interest without the least scruple. The admission of Arabian women to the succession proves that in Arabia, at the time of Muhammad, the effects of maternal affiliation had not yet been effaced.

F. *The Kabyles.*—We see that among the Kabyles, although Muhammadans, the women, after being joint-heirs, have been gradually ousted from succession. The Kabyles allow the classes of heirs recognised by Mussulman law, and a few others in addition. This is the general list: 1st, heirs *açeb* or residuary are all of the male line, direct from males, and all the collateral descendants by the males on the father's side; 2nd, the ancestors in the male line on the father's side, the father, grandfather, and great-grandfather; 3rd, the master and the freed man, heirs *açeb*, the one from the other; 4th, the *Kharûbah*, a kind of clan, which enters into the succession in opposition to the uterine brother; 5th, the village, which holds similar rights. In default of ancestors and descendants, the succession goes to the collateral heirs *açeb*, of no matter what degree.[2]

In Kabylia there is no question of nomadic populations. All are husbandmen attached to the soil, and devoted to it; everything also which pertains to hereditary transmission of property has been carefully regulated. As a general rule, the males alone hold property in immovables.[3] Every inheritance may be accepted or refused, but in some tribes, if the sons have lived in their father's house, and shared in the administration of his goods, the creditors are allowed to sue them despite all renunciation of claims.[4] For all that, neither communistic nor even family property is maintained, and nothing is permitted to remain undivided.[5]

The adopted son inherits, but never more than two-thirds of his foster-father's goods, for adoption in Kabylia is yet only of the primitive kind; it does not entirely break all ties with the natural family, and, in case of the adopted child's death, it is his relatives who inherit his property.[1]

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[1] *Voy. fait par ordre du Roi Louis XIV.*, etc., 311.

[2] Hanoteau et Letourneux, *Kabylie*, ii. 287.

[3] *Ibid.*, ii. 223.

[4] *Ibid.*, ii. 205

[5] *Ibid.*

In the matter of succession, as in all others, the Kabyle woman is sacrificed. The Muhammadan religion, however, secures her, as we have seen, certain rights of succession. But this relative favour came at last to seem excessive to the Kabyles, and about one hundred and twenty years ago, at a large assembly, they declared that in future women should have no legal place in the succession of the men. This decision was even looked upon as a grand reform, and the recollection of it was preserved by setting up memorial-stones on the top of a mountain. These upright stones, analogous to *menhirs*, are customary with the Kabyles. They raise them on all occasions of important social acts, and each of them represents the agreement or signature of a tribe to a concluded pact. They knock them down if the agreement is subsequently broken.

The exclusion of Kabyle women is strictly maintained in most of the villages, even so far as to allow a man's heirs to take the very ornaments given to the wife by her husband.[2] Certain of the villages, however, have not followed the movement, and in default of male children they leave to the women sometimes half, sometimes a third, of the inheritance.[3] When a Kabyle woman dies, the succession to the little she may have been able laboriously to amass, goes to the heirs male, descendants, ancestors, or collaterals. Yet, in default of *açeb* collaterals, the female succession devolves on the daughters, and on the mother or grandmother of the deceased.[4]

Whether spinster, wife, or widow, the Kabyle woman usually possesses nothing of her own; she it is who is possessed. It is therefore necessary in matters of inheritance to think about the friendless women. To this end Kabyle custom imposes on heirs the duty of feeding and clothing the women when they come into their property; these women may be unmarried virgins, widows, divorced or rebellious wives.[5] Women have also the right of dwelling in the house of their male relatives, and sometimes the *kanûns* inflict fines on recalcitrant kinsmen.[1]

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 190.

[2] *Ibid.*, ii. 303.

[3] *Ibid.*, ii. 238.

[4] *Ibid.*, ii. 297.

[5] *Ibid.*, ii. 294.

In barbarous civilisations the tendency to disinherit women is common. Even in those places where either maternal affiliation, or the customs derived from it, have been preserved, care is usually taken to place the nominal heiress under the guardianship of an uncle or some other male relative. Nevertheless, even under the paternal family system, the complete and absolute disinheritance of woman is rare, and, in this respect, among the peoples yet to be examined, at least among contemporaries, the Chinese alone rival the Kabyles.

III. *Inheritance in China and India.*

In the Celestial Empire, indeed, not only are women disinherited, they also form part of the heritage under the head of exchangeable values. As daughter, the Chinese woman, as I have elsewhere shown,[2] is the property of her parents, who sell her to the husband. As widow, the heirs of the deceased spouse give her in marriage, often without consulting her, merely that they may recover the price that had been paid for her. The infant at the breast is even included in the bargain.[3] The prohibition to sell a widow before the expiration of her mourning is the only protection afforded by Chinese law to bereaved women. In China women are completely shut out from succession; they are only given for their own, on the occasion of their marriage, a little dowry in money and furniture; but the value of this is left to the generosity of fathers or brothers.[4]

Property is transmitted to sons alone. I have already had occasion to say that in China property is still of the family type, but already is undermined by a tendency towards individualism. Custom, however, still keeps up family property. When a Chinaman dies his eldest son succeeds him, and becomes trustee of the inalienable portion of the estate. Most often the other children gather round the eldest as they would round their father; but law admits of the estate being divided, and if this takes place it is parcelled out in as many lots as there are brothers. In this case the eldest has no advantage beyond that of receiving, in addition to his lot, the inalienable portion, wherein are the tombs of his ancestors, a sacred spot which he is in duty strictly bound to transmit to his heir.[1] The family community is, however, in China very slowly breaking up, and the sons' individual rights to their share of the patrimony must necessarily in time destroy the ancient collective system.

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 247.

[2] *Evolution of Marriage*, etc.

[3] *Lettres édifiantes*, xiii. 349.

[4] E. Simon, *Nouvelle Revue*, 1883.

A similar change is making its appearance in India also; it is part of the natural law of social development. In the Tamil districts of India traces of family and maternal succession are still to be found;[2] but what is much more usual is the maintenance of joint-property among all the members of the family, the *family group*, which is inclining toward transformation into the village community. Many of these families never divide, and the gains of each member go to swell the common stock.[3] According to Hindu notions of the right of property, family solidarity overrides the father's right. A son, from the moment of his birth, and by the mere fact of birth, obtains a right of joint-ownership in the paternal possessions,[4] and so unimpeachable is this right that even when the son has committed a crime against his father, the latter has no right to disinherit him. As a general rule, landed property is seldom divided, and the precepts of the Code of Manu relative to succession apply chiefly to movable possessions. The organisation of village communities and of family groups evidently does not lend itself easily to the division of lands. The principle of division among the sons is, nevertheless, admitted; but it is greatly to the advantage of the sons of Brahman women,[5] and the right of the eldest is recognised.[6] This right is besides connected with that of celebrating the obsequies of the father, and Manu has provided it with a religious basis.

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[1] E. Simon, *La Cité chinoise*, 39 *et passim*.

[2] *Lettres édifiantes*, xiv. 387.

[3] *Ibid.*, xiv. 393.

[4] Maine, *Ancient Law*, 280.

[5] Code de Manou, ix. 149.

[6] *Ibid.*, ix. 125.

It is the eldest who pays "the ancestral debt": he is pre-eminently, therefore, the successor; the other children are said to be *born only of love*.[1] Consequently the first-born has the right of taking possession of the family inheritance, and his brothers must then live under his protection. Should he die, the eldest son succeeds in preference to his uncles.[2] This privileged son, however, must give some moral securities. To inherit, says the Code of Manu,[3] it is necessary that he be "eminently virtuous," that is, fit to play worthily his part as head of the family. In practice, the Hindu family groups interpret the word *virtuous* as meaning *capable*. They look upon the elder, who governs them, merely as a manager; and if he does not understand his duties they replace him by a worthier kinsman.[4]

The widow's rights of succession also differ much in the Code of Manu, and in practice. Sacred law disinherits woman generally, at least in the Brahman caste. A woman cannot inherit a man's property, because she is not competent to the performance of religious rites;[5] but unwritten usage often made the childless widow a true proprietress for life.[6] In olden times the levirate was the rule in India, when the deceased husband left no sons. Custom has, therefore, gradually become more merciful towards widows.

As to the daughters, they had no right to the patrimony, but on the brothers devolved the duty of making up a dowry for them, so that they could marry.[7] This dowry, with the addition of a part of the "bride-price" paid by the bridegroom, and all that the woman might receive or acquire, together with what her husband conferred on her "at the nuptial fire," as the sacerdotal Hindu lawyers express it, went to form for the mother a private property, which the unmarried daughters shared equally with their brothers.[8]

Nothing is more usual than this exclusion of the daughters from succession. On the one hand it arose quite naturally from the humble position given to women in the majority of savage or barbarous societies. On the other, in societies subject to the joint-family system, it was neither desirable nor permissible for women to impoverish the group by carrying off to strangers a portion of the property, especially the landed property, common to the entire kindred. But the property that devolved on men by preference in barbarous civilisations was never a free benefit; it entailed certain duties; among others, that of getting the girls married and receiving the widows, sometimes with the right of re-marrying them, as in China—that is, of re-selling them to new husbands. This may be brutal, but it is not the absolute abandonment which our modern legislation sometimes authorises.

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[1] Code de Manou, ix. 104, 107.

[2] Maine, *Ancient Law*, 239.

[3] Code de Manou, xi. 105.

[4] Maine, *Early History of Institutions*, 116, 117.

[5] *Ibid.*, 333.

[6] Maine, *Village Communities*, 55.

[7] Code de Manou, ix. 118.

[8] *Ibid.*, ix. 131.—Maine, *Early Hist.*, etc., 324, 325.

IV. *Inheritance amongst the Greeks and Romans.*

These customs, uncivilised but still bearing the marks of collectivism, were those of the early historic ages in Greece and Rome; but in this case we are able to follow the later development. According to the laws of Solon, the sons inherited; but they must take care of their sisters and find them husbands, almost as it was in India. What is more painful and entirely savage is that in the best days of Athens the father of a family had an absolute right to bequeath his wife and his daughter by will, placing them on a level with property.[1] In default of sons, the daughters inherited; but then the heiress was chained to the estate, and compelled to marry the male agnate, who, failing her, would have succeeded to it.[2]

During the prehistoric times of clan communities the inheritance naturally would not leave the little kindred group either in Greece or in Rome. The Law of the Twelve Tables bears further witness to this right of the *gentiles*, in granting them the succession in default of sons and agnates. At the historic period of the patriarchal family, when the father was master of all his possessions, whether chattels or persons, when private property was established, the chief,

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[1] Demosthenes, *Against Aphobus.*

[2] L. Morgan, *Anc. Soc.*, 548.

pater familias, had as necessary heirs (*heredes sui*) all those whom he had in his power, without distinction of sex. Failing them, the nearest agnate *took the family*. In default of the agnate, or if he refused, the nearest gentile had a right to the succession; but he only; the agnate of the next degree was not allowed to put in claims. No privilege of sex or of primogeniture is recognised in the Law of the Twelve Tables.[1] But, in principle, the lands of the plebeians alone, of the persons who had no *gens* (*Plebs gentem non habet*), were divided after decease; those belonging to the patricians were a kind of sacred property, and could not be divided.[2] It was evidently to prevent such a mischance that later on the *lex Voconia* excluded women almost altogether from succession; since the Twelve Tables declared *heredes sui*, joint-heirs to a certain extent, all those found under the power of the deceased at the time of his death, son and daughter, grandson and granddaughter, great-grandson and great-granddaughter, natural or adopted.[3] In ancient Rome the family had still the character of a corporation which did not die, and the rights and obligations of the deceased passed, without break, to his successor.[4]

Such was, in broad lines, the law relating to succession during the early centuries of Rome, but this condition of things became slowly modified, undermined as it was on the one hand by the edicts of the prætor, on the other by the influence of foreign nations that Rome had conquered one after the other. Under Justinian there were no longer any traces of the Voconian law; sons and daughters received equal shares. In the end the table of succession differed but little from that of most modern codes.[5]

V. *Inheritance in Barbarous Europe.*

If we pass from Rome to barbarous Europe we see that the laws and customs concerning succession all bear, more or less, the character of the family community in various degrees of development. Among the Cantabrians we find the maternal family, daughters inheriting and obliged to marry their brothers, so at least Strabo says;[1] but it is probable that the ancients were deceived by the organisation of a house-community, with right of primogeniture in what concerned the management of the estate. This birthright, as it still exists in Japan and the Basque provinces, was in so far primitive that it took no account of sex, the chief aim being to avoid dividing the family domain.[2]

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[1] Ortolan, *Hist. leg. rom.*, 116.

[2] Meyer et Ardant, *Question agraire*, 63

[3] Domenget, *Institutes de Gaius*, 217.

[4] Maine, *Ancient Law*, 184.

[5] *Ibid.*, 219.

Up to a relatively recent period the Kelts of Wales and Ireland maintained an extremely primitive system of succession, based on clan community and periodic allotment. Among both, in accordance with the custom of *Gavelkind*, when any member of the *sept* died the chief made a new partition of all the lands.[3] But the method of succession already adopted by the chiefs was contrary to the primitive law. In fact, the lot assigned to the chief was not repartitioned, but passed intact to his successor. This was the system called *tanistry*.[4]

Furthermore, among contemporary Slavs, we still find a method of succession which may be termed communistic. Within the *mir* the death of one of its members may at most only necessitate a partial alteration in allotment, if the portion of land occupied by the deceased remain vacant. More generally the deceased, as head of the family, is merely replaced, now by his brother, again by his eldest son, at times by the widow, at others by an elder, and the family group continues its joint struggle for existence exactly in the same manner.[5] Among the Germans the development of both family and property was more advanced, and the Germanic system combined without much difficulty with that of the Romans and formed feudal society.

VI. *The Germans and Feudalism.*

We have seen that the Teutonic clans had a communal property, the *mark*, and household properties, each represented by the dwelling and its precincts. This privileged spot was Salic land. The common land was neither allotted nor inherited; while, as to the allotted portions, the death of an occupier could only bring about a change in the details of partition. Salic land, the *allod*, was the joint property of the father and his sons, and inalienable without the consent of all concerned.[1] When the father died the eldest son succeeded, and his younger brothers might at the time of their marriage build themselves dwellings within the Salic enclosure,[2] thus forming a kind of house-community. This is not the right of primogeniture, but it is the beginning of it, and the analogy between these customs and those of the China of to-day is striking. As for the remainder of the property, which evidently must have consisted in the main of movables, it was shared equally among the males. Salic land, above all, had to pass strictly to the male descendants: *De terra vero salica nulla portio hereditatis mulieri veniat, sed ad virilem sexum tota terræ hereditas perveniat* (Salian Franks). The Riparian Franks improved a little on this head; they admitted women to allodial succession in default of males. When the Franks established themselves on conquered territory, they applied the ancient law of succession only to lands considered as allods, and women had a share in the acquisitions (*conquistum*). As for the *allods*, the law of the Angles still gave preference not only to the male children, but to the paternal agnates up to the fifth generation, after which the inheritance "fell to the distaff" (*Ad fusum de lancea transeat*).[3] It was from these early Germanic customs that the feudal law of succession chiefly came. The *allod*, hereditary patrimony in the male line, and free from obligation, was always maintained; but by the mere fact of conquest, the *fief* or *benefice* granted by a conqueror in return for services due became much more common. As these services promised to the suzerain were chiefly military, the right of primogeniture, already germinating in Germanic customs, was the natural outcome of them, when the fiefs, at first held for life, became hereditary. Tenure entailed service, and, in the majority of cases, the eldest son was more fit than his brothers to take the place of his deceased father;[1] besides, he had first of all to pay a due to the suzerain, "the right of relief."[2] Only those serfs who lived in agrarian communities held their land without interruption or legal succession;[3] isolated serfs could not succeed without paying a due to the lord, without *finare*, as they said in Italy.[4]

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[1] Strabo, III., ch. iv. 18.

[2] F. le Play, *Organisation de la Famille*, 31, 122.—Giraud-Teulon, *Orig. Mariage*, 342, 346.

[3] Maine, *Early Hist.*, etc., 186.

[4] *Ibid.*, 185.

[5] Leroy-Beaulieu, *L'Empire des Tzars*, i. 478, 569-571.

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[1] Maine, *Ancient Law*, 228.

[2] E. de Laveleye, *Propriété*, 95.

[3] Hanoteau et Letourneux, *Kabylie*, ii. 287.

But as property became personalised, as the right of testation became customary, legacies to civilians, especially members of the clergy, to abbeys, bishoprics, in a word, to the Church, became the fashion, almost by compulsion, and vast church lands were formed, never partitioned and ever increasing.

At the end of the eleventh century one-third of the lands in Gaul already belonged to the clergy, who cultivated them by means of *coloni* or serfs.[5] It is curious to see the right of testation, otherwise the chief factor in the partition of lands, contributing, on the contrary, with the aid of the Church, to the re-establishment of immense joint-properties; which proves once more how unstable and infinitely complex are sociological facts.

VII. *The Will.*

The right of testation has played a very important part in the development of property. As a general rule, this right does not exist in uncivilised societies, or else transmissible property is reduced to a minimum. We have, however, already met with it among the Polynesians, at least in Tahiti, where dying persons can dispose of their possessions of all kind, and give concerning the division of them commands to friends and relatives, which are usually regarded as sacred.[6]

In the majority of barbarous societies, always imbued more or less with the spirit of communism, the right of testation is unknown, or else much limited. The Koran, indeed, enjoins the faithful to leave their goods *by will* to their nearest of kin, but it fetters the whim of the testator by dictating to him what he should do, and determining the portion of each heir.[1] Primitive Jewish institutions did not allow the right of testation at all.[2] In Kabylia the right was tolerated, but it was strictly regulated by the *Kanûns*. The Kabyle will, whether written or verbal, must be made either in the presence of the *ak'al*, the *Kharûbah*, the village, or the tribe.[3] The testator can only dispose of one-third of his possessions, if there lives, at the time of his decease, a relative qualified to succeed him. In default of legal heirs, the testator disposes of half his substance, the remainder goes to the *Kharûbah* or clan.[4] Nearly all Kabyle wills contain considerable legacies in favour of the *jamâ'ah*, which may be taken as indicating that the right of testation is of recent date in Kabylia.

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[1] Cibrario, *Économie pol. moyen âge*, i. 30.—Maine, *Ancient Law.*

[2] Cibrario, *loc. cit.*, 124.—Maine, *loc. cit.*, 232.

[3] E. de Laveleye, *loc. cit.*, 224.

[4] Cibrario, *loc. cit.*, i. 38.

[5] E. de Laveleye, *loc. cit.*, 112.

[6] Ellis, *Polynesian Researches*, ii. 362.

In India the ancient laws did not recognise testation, adoption supplying its place.[5] To this day in Bengal the will and pleasure of the testator are subordinate to certain superior rights of the village or family community.[6]

The ancient populations of Europe, like all those above enumerated, have but slowly recognised the right of testation. It was Solon who first introduced or allowed it in Athens.[7] Sparta recognised it only after the Peloponnesian war.

In Rome the right of testation was already proclaimed by the Law of the Twelve Tables: *Pater familias uti de pecuniâ tutelâve rei suæ legassit, ita jus esto.* But this form of will is, according to law, by no means an instrument for dividing the family estate. This is clearly indicated in the text, since the testator disposes only of his personalty (*pecunia*) and provides for the *guardianship* of the family. Further, it was necessary in making a will that there should be neither children nor close kindred.[8] In ancient Rome, the special object of the will was to regulate the management of the household. But by degrees the power allowed to the testator widened, and to such an extent that various laws were needed to restrain it. *Lex Furia* prohibited bequests or gifts of more than 1000 asses (£2). The *Lex Falcidia* forbade the bequeathing of more than three-fourths of an estate.[1] At first Roman wills were neither secret nor revocable, and took immediate effect.

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[1] Koran, Sura, ii. and iv.

[2] Maine, *Ancient Law*, 197.

[3] Hanoteau et Letourneux, *loc. cit.*, ii. 335.

[4] *Ibid.*

[5] Maine, *loc. cit.*, 194

[6] *Ibid.*, 194-197.

[7] Plutarch, *Solon.*

[8] Maine, *loc. cit.*, 200.—Ortolan, *Hist. leg. rom.*, 89.

Prior to Roman influence the barbarous populations of Europe were completely ignorant of will-making.[2] To this day, among the Russian Slavs, custom does not permit the father of a family to deprive his children of their inheritance for the benefit of strangers.[3] It was only shortly before the last part of the Middle Ages that bequest began to be freed from all trammels, and to be looked on as a means of taking away all or part of the property from the family in order to dispose of it according to fancy. The right of primogeniture and the principle of feudal property long fettered the whim of the testator in all that concerned land; the right of testation began with personal property. Lastly, the Church, by her greed for worldly wealth, popularised and extended as much as she could freedom of testation, which is still restricted by the majority of our contemporary codes.

VIII. *Development of the Right of Inheritance.*

The preceding facts, taken together, show us clearly enough how the right of succession everywhere came into being and was developed. At the outset of societies, in communal clans, there could be no question of inheritance. The members of a group merely succeeded each other through birth and death, like the leaves of an evergreen plant. The hunting-grounds and even the tilled fields belonged to all; personal effects were of little value, and the deceased often desired to take them with him to the world beyond. Before the right of succession could be established in earnest the family must necessarily have separated from the clan and possessed its own domain.

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[1] Domenget, *Institutes de Gaius*, 255.

[2] Maine, *Ancient Law*, 196.

[3] Leroy-Beaulieu, *Empire des Tzars*, 483.

But it was long before it came into the mind of any one that the head of the family, whether maternal or paternal, had the right of use and abuse over the domain, of dividing it, of breaking it up, of bequeathing it to strangers. Landed property represented the very life of the little joint-family; it supplied all that was needful. The head of the family, however wide his powers, was chiefly a manager; and when the eldest son succeeded, he did so because he was soonest fitted to fulfil the duties of head. The rights he inherited corresponded to his duties; and so long as primogeniture had not become legal, the community never hesitated, if need were, to put another of its members in the room of one that was unfit.

Before the right of property became private it was first necessary for the family union to be dissolved, and for the members of the same family to be no longer considered as joint-owners of an inalienable estate. Then partition of personalty became customary, and afterwards law. Lastly, the right of testation, in the beginning restricted to the disposing of personal effects, the making of certain household arrangements, and the final advice or commands of the dying chief, was freed from all restraint. The holders of wealth could dispose of it according to fancy, whatever the nature of that wealth might be, because landed property had become movable, and was transmitted exactly like the jewels or money with which it could be acquired.

At this moment in the development of the right of succession, legislation, hesitating between the old and new order of things, usually admitted of heirs-in-waiting, whose rights were based on degrees of consanguinity alone. Naturally, and even necessarily, according as private property was established, the claims of women, accounted as slaves in the inheritance when the chief aim was to keep the family estate undivided, were admitted more and more—at first to a lesser share, then on an equality with the males; there was no longer any reason for their exclusion.

In short, the right of succession was born, confirmed, and individualised in accordance with the dismemberment of the early social groups, the clan and the family, in proportion also as important personal wealth was created and assimilated more and more to landed possessions. By degrees the duties attached at first to the right of succession disappeared; the right of primogeniture, for example, survives all the duties which in early days to a certain extent justified it. Property is transmitted for no other reason than that of a distant and doubtful kinship or the capricious will, often biassed, not unseldom bribed, of the testator: all this without the slightest regard to the superior interests of the community. This is modern law. What changes may the future bring? This question I shall shortly have to consider.

CHAPTER XIX.

COMMERCE, DEBTS, MONEY.

I. *Commerce.*—Unknown to primitive peoples—Trading agents in Australia — Trading by deposit in Columbia and New Mexico—Similar custom in Lybia—Armed trading in Nubia—Exchanges between the wigwams of the Redskins—Chiefs as intermediaries in Chili and New Caledonia—Tolls to chiefs on the Gaboon—Free trade in Polynesia—Dislike of savages and barbarians to free trade—Trade in Abyssinia—Excessive taxation on trade in Central Africa—Free and protected trade among the Kabyles—Commerce of ancient Egypt—Of ancient Rome—Tyrannical regulations at Carthage—Solon as protectionist—Exportation of cereals prohibited at Athens—Protection in ancient Rome—Development of its trade—Excessive trade regulations in India—Vexatious ordinances of the Middle Ages.

II. *Debts and Interest.*—Cruel rights of creditors in savage or barbarous societies—In Africa, Rome, Judæa—More humane laws in Egypt—Humane precepts in Deuteronomy—Suicide of debtor and its consequences in China—Severity of laws in the Code of Manu—"Sitting *dharna*" in India, Persia, and Ireland—Interest—Limits to its accumulation in Egypt—Forbidden in Bible and Koran—Enormous interest in Kabylia—Limitation of it in India—Usury condemned in Greece—Excessive rate of interest in barbarous societies—Usury in ancient Rome, in Ireland, during the Middle Ages, and in Poland.

III. *Money.*—Music and money debatable subjects—Primitive currency in Africa—Salt, cowries, beads, stuffs, etc.—King Mtesa and his metal money—Primitive currency in Nubia and Abyssinia—Thaler of Maria Theresa—Shell money in Central America—No currency in Peru—Mexican currency—Feathers, iron, etc., used as money in Polynesia—Money in Malaysia—Chinese *sapec*—The *tael*—Hebrew shekels—Fiduciary currency at Carthage—Metal currency in India—Cattle currency in ancient Greece and Rome.

I. *Commerce.*

To civilised populations commercial exchange seems a very simple matter. Nevertheless, during the lengthy childhood of humanity many centuries must have elapsed ere the little ethnic groups even formed any idea of amicable barterings among themselves. All over the world the first intercourse between hordes and tribes must have been of the nature of warlike conflicts, and brutal struggles for existence. Hence evidently sprang the formalities, or rather obstacles, in trading among the savage peoples.

At first commerce was not looked upon as a private matter; it concerned the whole group by whom it was controlled. In Australia, among the Narrinyeri, when two tribes wish to enter into commercial relations, or to maintain them, they proceed as follows:—On each side the duties of business agent are entrusted to an individual chosen for the purpose at his birth, and whose umbilical cord has been carefully preserved, wrapped in a tuft of feathers. This object is called the *Kalduke*, and the fathers of the two children dedicated to trade exchange it with each other. These children must never speak to each other, and at an adult age they become commercial agents in the name of their respective tribes.[1]

In uncivilised countries it is so customary to regard strangers, and even neighbours, as hereditary enemies that commercial exchanges are often made by means of a depôt for goods in a given spot and at a given time. In Russian Columbia this is the mode of procedure:—The stranger began by depositing his goods on the bank, then withdrew; the Indian afterwards came and placed by the side of the first deposit what he thought a fair exchange and then went away. The stranger then came back and carried off the Indian's goods, if they seemed to him of sufficient value; if not, he simply withdrew again, and waited until something else was added. If they did not come to an agreement each took back his goods.[2] There was a like manner of procedure in New Mexico, between the Spanish soldiers of the *Presidios* and the Indians. Along the road leading from Chihuahua to Santa-Fe the Indians, when inclined to trade, erected little crosses, on which they hung a leathern pouch with a piece of venison; then, at the foot of each cross, they deposited buffalo hides to be exchanged for victuals. The soldiers took the skins, and in return left at the foot of the cross some salt meat.[1]

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[1] *Native Tribes of South Australia*, 33.

[2] Bancroft, *Native Races*, etc., i. 63, 64.

These customs, exhibiting so singular a mixture of trust and distrust, are not peculiar to America, and they bear further witness to the fundamental sameness of mankind. Herodotus tells how the Carthaginians traded in a like manner with the Lybians beyond the columns of Hercules, on the African coast. "The Carthaginians disembark their cargo, return to their ship, and make a great smoke. The inhabitants come and leave gold near the goods. If there is sufficient left the Carthaginians carry it off; if not, they go on board again, and the natives add to the gold. They do not touch the cargo until the gold has been removed."[2] The Nubians of our day have slightly altered the process; both parties draw up in battle array opposite each other; then between the two bands exchanges are made by a few individuals.[3] Among themselves the Redskins act similarly, but as individuals and under the chief's protection. The caçiques and warriors of two tribes begin by exchanging presents, then they trade from wigwam to wigwam, sending in the goods for sale, the goods being returned or else some equivalent.[4] In Chili the chief warns his subjects by sound of trumpet when the merchants arrive. The Indians, who are thus summoned, hasten to divide the goods among themselves. Later on, when the merchants wish to depart, there is a fresh summons, and then each purchaser brings an article in exchange.[5]

Everywhere when tribes are under monarchic organisation the chief interferes at will in these barterings to authorise or control them, but chiefly to collect dues. Thus the Chilian caçiques just mentioned levied tolls on the rivers; *they had a bar across the stream.*[6] About a few years ago, in a district of New Caledonia, some French missionaries, manufacturers of cocoa-nut oil, bought the nuts through the medium of the chief, who made a profit out of them.[7] On the Gaboon, the tribes of the interior, in order to bring their goods to the mouth of the river, are obliged, under pain of fine, and even slavery, to let them pass from tribe to tribe; the price paid returns in like fashion, and on its way each chief levies toll.[1] In Polynesia, however, barter is carried on freely between individuals.[2] But this is not usual. Savages or barbarians have nearly always a horror of free trade.[3] Of this I will give instances.

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[1] Humboldt, *Essai sur la Nouvelle Espagne*, t. ii., liv. iii., ch. viii.

[2] Herodotus, iv. 196.

[3] "Les Nubiens du Jardin d'acclimatation," *Bulletin Soc. d'anthrop.* (1880).

[4] Lafitau, *Mœurs*, etc., iv. 53. [5] *Ibid.*, iv. 54. [6] *Ibid.*, 55.

[7] Thiercelin, *Journal d'un baleinier*, i. 305.

In Abyssinia, where home trade is rather brisk, since nearly every village has its market, the toll-gatherers watch the passengers night and day in order to exact from them the varying dues for which there is no tariff. Furthermore, only merchants are taxed in Abyssinia; there is open thoroughfare for every one else.[4] In the petty barbarous monarchies of Central Africa, where Berber and negro blood are largely mingled, there is a very active trade in slaves, commodities, stuffs, etc. There are even regular markets, sometimes daily.[5] These are sometimes fortified to protect the merchants from sudden attacks.[6] The petty kings, governors, princelings naturally levy dues, sometimes extremely heavy ones, on the wares. At Kano, in the Houssa, the governor simply carries off two-thirds of the dates and other fruits brought to market.[7] This town of Kano has besides, thanks to the nomadic Tuaregs, a trading connection with extremely distant countries, with Murzuk, Ghât, Tripoli, Timbuctu, etc.[8]

We must go among the republican Kabyles to find a free, though protected, trade. The Kabyle markets belong to the tribe. To each market (*sûk*) there are appointed salesmasters; but the markets are free of all dues, save for the tribal school (*mâmera*), when there is one. Furthermore, the market-ground is declared neutral, and placed under the *ânaia* of the proprietors; even in time of war it is possible to go to and from it with impunity. Any offence committed against the *sûk* is a violation of the public

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[1] Du Chaillu, *Explorations and Adventures*, etc., p. 10.

[2] *Voyage Astrolabe* (pièces justificatives, 178, 365).—*Cook's Voy.*

[3] Burton, *Lake Regions*, ii. 387.

[4] Combes et Tamisier, *Voy. Abyssinie*, iv. 104, 107.—D'Abbadie, *Douze ans dans la haute Éthiopie*, 21.

[5] Barth, *Voyage*, etc., i. 331.

[6] *Ibid.*, iii. 223.

[7] Clapperton, *Second Voyage*, ii. 89.

[8] Barth, *loc. cit.*, ii. 22.; i. 279.

ânaia, and it is punished on the spot with extraordinary severity; for example, the smallest theft entails immediate stoning.[1]

This freedom and respect for trade among the Kabyles is a kind of anomaly. In nearly all barbarous states of antiquity and of the present time, even in the most civilised of them, commerce and the manufactures which supply it have been always subjected to extremely harassing impediments. We know well with what reluctance China and Japan have been opened up to European trade. I have already told how distrustful ancient Egypt was of foreign traders, how they were only allowed to enter the country at certain spots on the frontier or sea-coast, the Egyptians being forbidden to join the caravans, and the ass and camel declared unclean.[2] Before Psametck, foreign sailors landing in Egypt were put to death or reduced to slavery. But love of gain is tenacious, and under the Pharaohs, as elsewhere, merchants in the end organised and carried on an important export trade in cereals, stuffs, glass, pottery.[3]

Now exportation necessarily evolves importation. But against the latter, and in general against all competition, barbarous states take defensive and offensive precautions, harsh in proportion to their lack of civilisation. We have just seen how ancient Egypt began by closing her frontiers. The Carthaginians, keen traders, forbade the Sardinians, under pain of death, to till their own land; they had corn to find a market for,[4] and they went so far as to run down every vessel sailing on the coast of Sardinia, Portugal, or Mauritania.[5] Roman merchants were only allowed into Carthage and certain Sicilian ports. They were shut out from all trade along the coasts of Lybia, Sardinia, Portugal, and from all rivers west of the Mediterranean. Treaties to this effect were explicit: "Unless by superior force, the Romans shall not sail beyond the lofty promontory, that is, the first cape situated to the north of Carthage. If they force their way in by dint of arms, they shall not be allowed to sell anything there."[1] "The Romans and their allies shall neither trade nor build towns in Sardinia or Africa."[2] If compelled to harbour in forbidden ports, they could not stay there longer than five days. These severe rules furnish us with a reason for the chronic rage against Carthage which burned in Cato the Elder, Cato the Usurer. The *Delenda Carthago* merely meant, "I have corn to sell; I do as much as possible in maritime usury at exorbitant rates. Destroy these competitors for me!"[3]

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[1] Hanoteau et Letourneux, *Kabylie*, ii. 78.

[2] Mesnil-Marigny, *Hist. écon. pol.*, i. 313, 314.

[3] Diodorus, i. 67.—Duncker, *Les Égyptiens*, 268.

[4] Mesnil-Marigny, *loc. cit.*, iii. 293.

[5] Strabo, xvii.

Greece, although so intellectual, did not escape the mania for excessive protection, and the folly of gain at all cost. Solon, the wise Solon, launched divine maledictions against those who exported from Athens any agricultural produce besides figs, oil, and honey.[4] Solon's mind with regard to economics was merely that of his time and his country, and this attitude persisted in Greece even up to her most glorious age. In the lifetime of Demosthenes capital punishment was incurred by the exportation of cereals.[5] The import duties in Attica were from 10 to 20 per cent.[6] The Peloponnesian war was prolonged simply because the Athenians absolutely refused to open their ports and the market of Athens to the Megarians.[7]

Rome was no more a free-trader than the other Mediterranean states. In early times she carried on a maritime trade along the coasts of the islands and of Africa, where she encountered the formidable rivalry of the Syrians, Carthaginians, etc. She bought from Carthage and Egypt much more than she sold there, but none the less she imposed an enormous duty on all foreign products, from 12½ per cent. *ad valorem.*[8] I have already told how the Romans uprooted the vines of Gaul to get rid of competition.

All this agrees but ill with the superb disdain professed for trade by well-born Romans. "We ought," said Cicero,

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[1] Polybius, iii.

[2] Livy, vi.

[3] Duruy, Filon, etc., *L'Italie*, 548.

[4] Mesnil-Marigny, *loc. cit.*, iii. 56.

[5] Demosthenes, *Philippic*, x.—*Oration against Nicostratus*, etc.

[6] Mesnil-Marigny, *loc. cit.*, iii. 232.

[7] Thucydides, *Peloponnesian War*, cxxxix.

[8] Code of Justinian, iv. tit. 65.—Code of Theodosius, xv. tit. 12.

"to despise traders . . . because for the sake of gain they needs must lie. What is there noble about a shop?" But Cicero meant only retail trade. "Wholesale trade," said he, "is not so contemptible." But why? The Roman knights, it is certain, and especially those called *publicani*, farmers-general of Rome, carried on export and import trade on a large scale. Egypt sent into Rome corn, black slaves, ivory, Indian products, etc. Forty thousand luckless beings laboured in the Carthaginian mines. Puteoli, in Italy; Marseilles, Lyons, Bordeaux, Nantes, in Gaul, were important markets. In Rome retail trade employed numerous shops, which were mere sheds against the houses, but fetching a high rent. The various kinds of trades and arts exercised either by slaves or by freedmen, clients of their former masters, and working for their benefit, were grouped in certain quarters and in guilds as in every country.[1] The early organisation of these industrial guilds, such as lasted in France up to the Revolution, is attributed to Numa Pompilius.

Space will not allow me to mention in detail the great Asiatic nations of China, Japan, and India; but all that has been just told of our classical antiquity is applicable to them: the hatred and mistrust of foreigners, extreme protection, excessive and inquisitorial regulations. For a very long while the Chinese never, so to speak, traded outside their own country.[2] In India, Strabo tells us, to prevent the exportation of a certain grain, the *bosphorum*, it was parched after being threshed.[3] Weights and measures, and the delivery of fruits in due season, were minutely regulated; the same merchant could not vend two different commodities without paying double duty.[4] "The king," says Manu, "every five or fifteen days, with the advice of experts, ought to fix the price of goods; he has the right to control, forbid, or claim for himself the importation or exportation of such and such a commodity."[5] Every six months the king must fix the value of precious metals, etc.[6]

Europe, up to a very recent date, was no wiser. At Lübeck, Hamburg, etc., woollen stuffs manufactured in

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[1] *Italie* (Duruy, Filon, etc.), 601, 602, 603, etc.

[2] *Lettres édifiantes*, ix. 325.

[3] Strabo, xv. 10.

[4] *Ibid.*, xv. 38.

[5] Code de Manou, viii.

[6] *Ibid.*, viii. 403.

England were excluded; at Venice Germans could offer their goods only to Venetian merchants, and had no right to take them away again. Such wares were even confiscated if they happened to be the same as those imported over sea by the Venetians. In France, during the Middle Ages and up to a period close to our own, a great many vexatious and absurd edicts and ordinances relating to commerce were enacted. "Considering," says an edict of Philip the Fair, "that our enemies would be able to benefit by our victuals, and that it is also of consequence to them to get rid of their goods, we have ordained that the first go not out nor the latter enter." An ordinance of Charles IX. forbids the exportation of "wool, flax, hemp, yarn," and the importation of "cloths, linens, striped stuffs, harness, swords, etc."[1]

I stop, not wishing to vex the shades of Sully and Colbert, nor especially would I, what is still more serious, seem to criticise our protectionists of to-day, who abuse the present system of liberty to throw us back into the customs and manners of the past. Old inherited instincts form the basis of the human mind, and the superposition of innate tendencies is exactly comparable with that of the earth in geology. The spirit of progress and liberty is only a thin bed, scarce covering the mighty moral strata bequeathed by our forefathers.

II. *Debts and Interest.*

After this brief glance at commerce, I must trace back, in equally broad lines, the sociological history of debts and loans.

A. *Debts.*—From the time of emergence from the village community, from the time private property, however restricted, came into existence, a law and a morality based on respect for thine-and-mine was established, and neither one nor the other sinned through excessive generosity. We have seen among the Eskimo that property is strictly limited to what is needful for the preservation of the individual; the surplus is common property. But in Negro Africa, where private property is already completely established, there are both creditors and debtors, and in cases of insolvency the latter are simply reduced to slavery.[1] In many savage or barbarous countries similar cruelty is to be met with; money, or what takes its place in value, is a long way ahead of the liberty and even lives of men. In Russia, up to 1624, the insolvent debtor might become the temporary slave of his creditor.[2] In Rome we have seen that the insolvent debtor might not only be enslaved, but even cut in pieces. In Judæa,[3] Greece,[4] etc., the creditor could enslave not only his debtor, but his wife and children also. We must bow respectfully to ancient Egypt, where the right of hypothec was not allowed over the person of the debtor or his family.

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[1] Mesnil-Marigny, *Hist. écon. pol.*, iii. 304, 305.

Let us also make honourable mention of certain Biblical precepts, according ill with the right of enslavement for debt. In Exodus the lender is enjoined not to take in pledge the covering wherein the debtor wraps himself at night.[5] In Deuteronomy it is decreed that the millstones wherewith the poor man grinds his corn must not be taken from him.[6] In Kabylia, where the ancient spirit of solidarity still lives, the unpaid creditor may not only carry off the debtor's son, but he has also the right of attacking and plundering every fellow-townsman of the debtor. It then becomes a matter of dispute between two communes.[7] We have also seen that during the Middle Ages the same custom was in force among the little Italian Republics.

In the great Asiatic empires, China, India, and Persia, extreme severity in the relations between creditors and debtors is also to be met with; however, certain practices, sometimes of the one, sometimes of the other, are inspired by sentiments of solidarity and humanity, and they are worth mentioning. In China, where persons are responsible for a suicide of which they have been only the indirect cause, it sometimes happens that the debtor, worried and tormented by an inexorable creditor, pays his debt and revenges himself at the same time by hanging himself at the door of the man who has hunted him down.[8]

[1] Du Chaillu, *Explorations and Adventures*, etc., 332.

[2] Meyer et Ardant, *Question agraire*, 214.

[3] 2 Kings, iv. 1.

[4] Plutarch, *Solon*.

[5] Exodus, xxii. 26, 27.

[6] Deuteronomy, xxiv. 6.

[7] Hanoteau et Letourneux, *Kabylie*, ii. 356.

[8] Ph. Daryl, *Le Monde chinois*, 53.

In India, where the Code of Manu allows a creditor the right of distraining the debtor by seizing and shutting up his son, wife, and live stock, or else by ill-treating the debtor in person, and taking him away to his own house,[1] where father and son are jointly responsible for debts, even to the third generation, recourse is also had to moral pressure, to what is called the "sitting *dharna*," which is evidently the chief resource of the weak creditor against a powerful debtor. The "sitting *dharna*" means watching the debtor's door, and that most strictly. The creditor, or more often his representative, seats himself at the debtor's door, "with poison, or poignard, or some other instrument of suicide in his hand, threatening to use it if his adversary should attempt to molest or pass him." Throughout the vigil, the debtor and the representative of the creditor, who is usually a Brahman, must fast, and, if needs be, let himself die of hunger. Now, according to the Code of Manu, there is no more frightful crime than causing the death of a Brahman; this is why the intervention of a Brahman is so much in request by the creditor, as it gives additional efficacy to the "sitting *dharna*."[2] A similar custom is met with in Persia, but there the creditor, practising distraint by hunger, begins by sowing barley before his debtor's door; then he sits down in the middle of it, and waits, implying that he will watch until the barley has grown up.[3]

It is extremely curious to find a similar custom in ancient Ireland, and in this case the *Senchus Mor* expressly states that distraint by fasting should be used against debtors of a superior grade. "Notice," it says, "precedes distress in the case of the inferior grades, except it be by persons of distinction or upon persons of distinction; fasting precedes distress in their case." "He who does not give a pledge to fasting is an evader of all."[4]

In southern Italy the pecuniary solidarity of the members of a family is still admitted. It was the same in Ireland, where the Brehon law declared that debt contracted by a man was made good by the property belonging to the members of his family.

To sum up, all these laws and customs relating to debt bear traces of a frank brutality, and we have seen that in early Rome and the Athens of Solon the laws were not more merciful. These facts put together bear witness with sufficient eloquence that in savage and even in merely barbarous countries, money, or, more usually, exchangeable values, already play one of the most important parts.

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[1] Code de Manou, viii. 50.

[2] Maine, *Early Hist.*, etc., 40, 297-299.

[3] *Ibid.*, 297.

[4] *Ibid.*, 39, 40.

B. *Interest.*—The notion of borrowing or lending is certainly not new to mankind, but the idea of lending at interest seems less ancient. In fact, many old laws either forbid interest or strive to put a curb on the rate. In ancient Egypt, the law did not permit the total of the accumulated interest to exceed the sum lent.[1] The Bible and the Koran forbid usury—that is, lending at interest—the former between Hebrews, the second absolutely.[2] "Thou shalt not lend upon usury to thy brother; usury of money, usury of victuals, usury of anything that is lent upon usury: unto a stranger thou mayest lend upon usury."[3] The Koran has already been quoted on this point.[4] It further says: "O true believers, devour not usury, doubling it twofold."[5] In Kabylia free loans are still preached by the Marabuts. Certain tribes have even established penalties against lender, borrower, and go-betweens. Timorous and greedy holy men lend without interest, but by juggling with holy writ they increase proportionally the sum to be repaid. In other less scrupulous tribes the lawful interest is 33 per cent. the year. It may even exceed 50 per cent. They lend by the month, week, or day, for a voyage or during a season.[6]

In China, in the India of Manu, and in ancient Greece, we find also either laws to check the abuse of usurious loans, or protestations against the very principle of them. China and ancient India, unconsciously imitating Egyptian legislation, did not permit accumulated interest to exceed the principal. In China the rate of interest is enormous, 30 per cent., but it can only be exacted for three years. After that the principal alone is owing.[7] We read also in the Code of Manu that interest, if paid at once and not by the month or day, should not exceed the principal.[1] In India and the majority of barbarous civilisations, ancient or modern, interest is paid monthly. Moreover, lending on interest was, in the eyes of the lawgiver Manu, an act of such doubtful morality that it was prohibited to the superior castes, the Brahmans and Kshattriyas.[2] Even for the other grades, the code declared that "the sum lent to a person in distress can give rise to no interest, because then such interest would be extortionate."

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[1] Diodorus, i. 79.

[2] Exodus, xxii. 25.—Koran, ii.

[3] Deuteronomy, xxiii. 19, 20.

[4] Chapter xii.

[5] Koran, iii. 130.

[6] Hanoteau et Letourneux, *Kabylie*, ii. 398, 494.

[7] E. Simon, *Cité chinoise*, i. 4.

In Greece, Aristotle expresses the prevailing opinion in telling us that usury is "of all means of procuring wealth, the one most contrary to nature."[3] But the scruples of Græco-Latin antiquity concerning lending at interest did not last long. In all times and in every country such moral uneasiness presupposes a society chiefly agricultural, where rural property is immovable, and comprised in family estates sufficient unto themselves, where commerce is almost *nil*, where industry is village-industry, subservient only to the needs of local consumption. From the moment when the era of maritime and international trade opens out, when industry begins to manufacture for the foreigner, speculation and stock-jobbing with its widespread practice of lending and borrowing are brought into being. Then usury ceases to be stigmatised; it becomes even respectable and legitimate, and interest is called the lawful hire of money.

But, however legitimate it may be, this hire was for long excessive, and was usually paid by the month. The prevention of indefinite accumulation of interest was not dreamed of, and the rate of it was enormous, as the following instances will show.

To this day in Abyssinia, where ancient customs have been preserved, they lend at either 10 per cent. the month, or 120 per cent. the year.[4] The Code of Manu decides that the lender, when furnished with a pledge, should be content with 1¼ the month, and 2 per cent. the month if he be given no security.[1] It is never permitted to levy more than 5 per cent. the month,[2] but it is decreed, without any false modesty, that the rate of interest should be in an inverse ratio to the social position: 2 per cent. the month for a Brahman, 3 per cent. for a Kshattriya, 4 per cent. for a Vaisya, and 5 per cent. for a Sudra.[3] The same code stipulates, meanwhile, for unlimited interest when it concerns a loan connected with long voyages by land or across water.[4] Travelling by land or sea was at that time a hazardous thing. To go from India to China took at least three years. At Athens the rate of interest was also monthly, and very high. Solon lowered it to 18 per cent., and that appears to have been a boon. Furthermore, both person and land were pledged, with *transfer* in the ownership of the latter. The lowest rate of interest in Athens seems to have been 10 per cent., bankers readily obtaining 36 per cent.[5] An inscription found at Corcyra proves that money lent brought in at that time usually 24 per cent.[6] At Rome, the Twelve Tables fixed interest at a twelfth of the principal per month.

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[1] Code de Manou, viii. 151.

[2] *Ibid.*, xi. 117.

[3] *Politics*, I., ch. iv. 23.

[4] Combes et Tamisier, *Voy. Abyssin.*, iii. 347.

The Romans had a passion for usury. Cato the Elder practised maritime usury, the worst form of all. Later on the usurer exercised his calling openly, with deeds regularly witnessed in the presence of public officers, and afterwards duly registered and preserved by the State. Large incomes were made by borrowing at low rates and reinvesting at extremely high ones. The legal rate was 12 per cent. the year, payable monthly or at the end of the year, but in this case the interest of the interest had to be paid. Thus acted honest men; but the usurer, according to Horace, lent at the rate of 60 per cent.[7]

These matters were on no more honourable footing in barbarous or feudal Europe. The Irish chiefs received interest on the live-stock lent by them. They annually drew one-third of its value, about 33 per cent.[8] In France, at the close of the thirteenth century, money-lenders took two *deniers* in the *livre*—about 43 per cent. in the year. In Poland, where, according to early custom, free men when insolvent debtors were enslaved, the law allowed an interest of 20 per cent. per annum.

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[1] Code de Manou, viii. 140, 141.

[2] *Ibid.*, viii. 152.

[3] *Ibid.*, viii. 142.

[4] *Ibid.*, viii. 157.

[5] Meyer et Ardant, *Question agraire*, 42.—Mesnil-Marigny, *loc. cit.*, iii. 61.

[6] Mesnil-Marigny, *loc. cit.*, iii. 195.

[7] Duruy, etc., *Italie*, 548.

[8] Meyer et Ardant, *loc. cit.*, 129.

But, in order that interest on a sum lent might be fixed with accuracy, and even for commerce to develop to any great extent, an important preliminary invention was needed—that of money, of which it now remains for me to treat.

III. *Money.*

Certain subjects have a privilege of inspiring authors to somewhat irrational dissertations. In this connection the science of Æsthetics, especially of musical Æsthetics, has long ago won for itself a well-deserved notoriety; but it has a close rival in money. On the theme of money a vast number of subtle disquisitions have been elaborated. People have imagined theories algebraical, metaphysical, and mystical—far-fetched for the most part, and scarcely comprehensible. Such aberrations are perhaps an inevitable result of the very perfection of our monetary signs. It seems indeed as though a magic power dwelt in these pieces of gold in exchange for which we can satisfy most of our desires, and, if only we can secure enough, really dominate the world with more assurance than the most despotic kings. The history of the evolution of money is calculated to protect us from all these vagaries, and it is ethnography which gives us this history in detail.

As we have already seen, commerce was originally merely barter; but people soon found the need of some typical form of wealth, such as could serve as a standard to measure the value of other commodities, and be offered in exchange for any particular object.

The peoples of the great African continent offer to our inspection the various stages in the gradual perfecting of money. Exchange is facilitated sometimes by natural products, sometimes by manufactured. Salt especially is held in high esteem. In all Central Africa rock-salt is a precious object, serving as money. It is extracted from various mines, especially near the ruins of Taudenz.[1] "Amongst the Lattukas," says Baker, "it was the money most highly prized—an edible money, eagerly devoured by some of the chiefs."[2] Rock-salt is not found in the district occupied by the Lattukas, but the natives manage to extract salt from goats' dung, burnt, diluted, strained, and then exposed to evaporation; also from a plant like sugar-cane.[3] Throughout a large part of Negro Africa they call a rich man "a salt-eater," and on the shores of the Albert N'yanza the missionaries win the hearts of the natives by graciously offering pinches of salt to the children.[4]

Salt in Africa may be compared to our gold coinage. The place of copper coins, on the contrary, is taken by certain kinds of shell, especially cowries (*Cyprea moneta*), which may be gathered on different points of the coast from Ras Hafun up to Mozambique.[5] On the west coast the cowries are strung together by forties, and fifty of these strings are worth one dollar.[6] In the interior the cowries are not strung together, but are taken five at a time and made into heaps of 200 or 1000.[7] At Kano the cowry is called a *kûrdi*, and 2500 of these shells are worth one Austrian thaler or a Spanish crown. It is a cumbersome form of coinage; an ordinary camel cannot carry more than 100,000 *kûrdis;* a strong one may carry 150,000, which would amount to sixty Spanish crowns.[8]

Other natural products may take the place of money—for example, spices (cloves, pepper, aniseed, fennel[9]) or buck-wheat (*Pennisetum typhoïdeum*).[10] Beads of glass, china, or coral, too, are often money of value. In Eastern Africa the *samsam*, or small coral, is called the "breaker of towns,"[11] for it leads women astray, as gold once seduced Danaë. Glass and china beads are much thought of, but taste changes; sometimes they must be red, sometimes white, sometimes opal.[12] In 1858, at Msene, Burton could buy a pound of beef for ten beads.[13] The armlet of brass wire was also an object of considerable worth.[1]

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[1] Barth, *Voyage*, iv. 102, 103.

[2] Baker, *Albert N'yanza*, i. 355, 356.

[3] *Ibid.*, 356.

[4] *Annales de la Propagation de la foi* (1888).

[5] Burton, *Lake Regions*, etc., ii. 416.

[6] *Ibid.*, 417.

[7] Barth, *loc. cit.*, ii. 28.

[8] *Ibid.*, ii. 142.

[9] *Lettres édifiantes*, iv. 642.

[10] Barth, *loc. cit.*, i. 257.

[11] Burton, *loc. cit.*, ii. 392.

[12] Baker, *loc. cit.*, ii. 181.

[13] Burton, *loc. cit.*, i. 398; ii. 395.

This brass is one form of artificial money, but there is another much more frequently used—that is, strips of stuff, especially of brilliant colour.[2] In different parts of Central Africa they weave narrow strips of cotton for this purpose, only two or three inches wide. Other stuffs, less narrow, not only serve as clothes for the women, who roll them round their bodies, but are also used as money. At Katsena these stuffs are called *tûrkedi;* at Baghirmi, *fardas.*[3]

In comparatively civilised districts, such as Timbuctu, money in specie is recognised, but is very rare and much sought after.[4] At Kukaua, in Nubia, and in the whole of Eastern Africa, the recognised money is the Austrian thaler with the head of Maria Theresa. It comes from Egypt or by way of Egypt, and is of great assistance in commercial transactions. But metal money has not yet penetrated into the regions of the Great Lakes. When Speke gave the famous King Mtesa a purse containing different pieces of money, the monarch hardly noticed it, and threw it on one side, although the traveller took pains to explain its value.[5]

In Nubia and Abyssinia nearly all African forms of money may be found, except the cowry. In Abyssinia the current money is salt, and special kinds of cloth (*chamma*), with a black, red, or blue border along its lower edge.[6] In Nubia gold-dust, enclosed in quills, is also used. At Massowah, at the time of the visit of Combes and Tamisier, they used glass beads of a deep blue for money.[7] But the most valued money in all this region, in Nubia as well as Abyssinia, is the *talari*, the thaler of Maria Theresa. No other effigy is admitted, and for a piece to pass without difficulty the seven points on the queen's diadem and on her clasp must be clearly marked; it is also necessary that the two letters SF, placed beneath the bust, should be distinctly cut.[8] When Combes and Tamisier visited Abyssinia, other forms of money still more primitive were current there, such as Venetian bottles (*brenhi*), packets of large sewing needles, and even black pepper and snuff.[1] No African races of to-day, at least none of those which can be regarded as more or less aboriginal, have a metal currency in the European sense, for the Austrian thaler is a foreign importation.

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[1] Burton, *loc. cit.*, ii. 395.

[2] *Ibid.*

[3] Barth, *loc. cit.*, ii. 70, 211; iii. 134, 139, 196.

[4] *Ibid.*, iv. 42.

[5] Speke, *Discovery of the Source of the Nile*, 295.

[6] Combes et Tamisier, *Voy. Abyss.*, iv. 66, 108.

[7] *Ibid.*, i. 105.

[8] *Ibid.*, iv. 108.

The peoples of Central America have gone through pretty much the same process as regards the invention of money as the African tribes. Among the Chinooks money is a shell (*hiaqua*) strung in chains, the value (provided the length is the same) increasing with the size of the shell.[2] One of the principal states of South America, Peru, had no money. Owing to its centralised communism it could do without it. In fact, in the Peru of the Incas there was no trade; the law of supply and demand did not exist—a certain proof, whatever our economists may say, that there is nothing in this law of the strictness of the law of gravitation. On the other hand, in Mexico, where trade was much thought of, where towns had markets and fairs, the necessity of money was felt, and money was provided. Gold-dust, enclosed in quills as in Nubia, answered the purpose; they also used cocoa bags, containing a regulated number of grains. There was besides a metal money, consisting of pieces of tin having the shape, or at all events the impression, of a T.[3]

The Aztecs were ignorant both of scales and weights. This last invention, with all its important consequences for science and even for morals, seems to have been arrived at by none but the white races.

In the Mongol and Mongoloid world of Oceania and Asia, we see that money was evolved very much in the same way as in Africa and America. In Polynesia, at the time of Cook, everything, even up to the favours of the women, could be bought for red feathers, or better still, nails. In certain islands in Malaysia, not long ago, everything was to be had for iron, of which the natives made tools and arms. For a large nail, though broken, every kind of merchandise could be obtained.[1] Even now in the Ke islands money is unknown; knives, clothes, or arrak are the only means of exchange.[2] But the more civilised Malay states have metal money. Formerly in the kingdom of Queda (Achin) the king obtained tin from his mines; of these he had pieces of money manufactured, each weighing one pound, and "worth seven sous," says an old missionary. Besides, he had very minute gold coins struck, an eighth of an inch in diameter, and engraved with Arabic letters. A miniature copper coinage also circulated amongst the people.[3] In Java, before the Dutch colonies were established, the current coin was the circular Chinese *sapec*, pierced with a hole in the centre, and weighing seven grammes.[4] It is still the only metal coin of China, at all events the only one struck. These *sapecs* are strung together by hundreds and thousands. A thousand *sapecs* thus strung together make a band, and are worth about four shillings.[5]

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[1] Combes et Tamisier, *loc. cit.*, i. 105.

[2] Bancroft, *Native Races*, i. 239.

[3] Prescott, *Conquest of Mexico*, 69, 297 (1878).

The invention of the *sapecs* in China dates back 2600 years before Christ. But at the same time the Chinese make use of silver in bullion as a form of money. Pieces are cut off as occasion demands, and weighed.[6] The Chinese *tael* simply represents a Chinese ounce (37 gr., 796) of silver.[7]

The white race, Semitic and Aryan, have passed beyond the rest of mankind in all that relates to money, as in so much else. Abraham, as we learn from Genesis, paid Ephron 400 shekels of silver, "current money with the merchant," for a field which he bought from him.[8] We do not know, however, whether these shekels represented bullion or coined money. In any case they were certainly weighed. But for the field bought by Jacob a hundred pieces of silver were paid, each marked with a lamb. He paid a hundred pieces of money, or lambs, to the children of Hamor, the father of Shechem.[9] Since in all questions of finance the Semitic peoples have shown a certain precocity, we are not surprised to find that the Carthaginians were the first to invent a fiduciary currency, consisting of "a small piece of leather wrapped round an object the size of a four-drachma piece." The leather was sealed up.[1]

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[1] *Lettres édifiantes*, iii. 64.

[2] Wallace, *Malay Archipelago*, ii. 110.

[3] *Lettres édifiantes*, xi. 163.

[4] *Voy. Comp. Indes-Orientales*, i. 363.— E. Simon, *Cité chinoise*, 121.

[5] E. Simon, *loc. cit.*, 121.

[6] *Lettres édifiantes*, xi. 273.

[7] E. Simon, *loc. cit.*, 121.

[8] Genesis, xxiii. 16.

[9] *Ibid.*, xxxiii. 19.

In India metal money was also known from the most remote times. Manu speaks of gold money, called sovereigns, of silver money (*machecas*), and of copper (*panas*). These coins were very rudely made, for, as Pliny tells us, a freedman, Annius Proclamus, who dwelt for several years at the court of the Rajah of Taprobane, in Ceylon, speaks of this prince's surprise on seeing the Roman coins, having the same weight but bearing different stamps.[2]

In Greece, during the Homeric age, there was no gold nor silver money. The ox and the sheep were used instead. The ox was even the monetary standard to which everything was referred.[3] A sheep was valued at a fifth part of an ox; it was a divisible form of money.[4] Later on there were two kinds of money in Greece; one, consisting of gold and silver coins, was rare. The governments hoarded it, for it was used especially in international commerce. The other coinage, of lead, copper or iron, was used for home exchange, and the value was fixed by decree. The money which the Spartans used among themselves was therefore not exceptional.[5]

The Romans acted exactly like the Greeks. The first money was the cow, afterwards replaced by a metal money called *vacca*, and bearing the effigy of a cow. Let me repeat once more: the peoples of white race had an origin as humble as the origin of the coloured races; they have painfully followed the common route; only they have advanced further.

The rude beginnings of money, its slow development, almost uniform everywhere, seem to banish every mystery from this interesting economic question. Perhaps writers who have been incapable of regarding a piece of gold without a certain dizziness and swimming of the brain, which disturb the course of their thoughts and reasoning, will in time learn to take the matter more coolly.

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[1] M. Marigny, *Hist. écon. polit.*, iii. 251.

[2] Pliny, Bk. VI., ch. xxiv.

[3] *Iliad*, xxiii.

[4] M. Marigny, *loc. cit.*, ii. 237.

[5] Plutarch, *Lycurgus*.

CHAPTER XX.

THE PAST AND THE FUTURE OF PROPERTY.

I. *The Evolution of Property unto To-day.*—By solidarity the instinct of appropriation is idealised—From the horde to the clan and to the family—The origin of private property—Agriculture and property—The domestication of animals and personal property—Communal culture and periodic allotments—Family property—The village community—Its moral effects—The encroachments of chiefs of tribes on common property—Subdivision of family property—The feudal system and property—Commerce and personal property—The increase of population depends on the property system—Capital—Selection by money—How the Old World perished.

II. *Property in Contemporary Europe.*—The Revolution of 1789 and property—Complete emancipation of private property—The distribution of real property in Europe—In France—The depopulation of the country—Industrial population—The amount of personal property in France—The extreme inequality of fortunes and its consequences—Abuse of industrial system—Mercantile civilisation—Pessimistic predictions—Social facts are essentially modifiable.

III. *The Future of the Right of Property.*—Revolutionary doctrines of orthodox writers—Graduated reforms—Revolutions and amputations—Return to solidarity necessary—The republic of Utopia—Reform of the law of inheritance necessary—The family and society—Gradual restrictions of the right of succession—The increase of inherited property—The aim of scientific sociology.

I. *The Evolution of Property unto To-day.*

In the preceding chapters I have endeavoured to follow the development of property from its earliest beginnings, frequently borrowing from ethnography the information which history is powerless to supply. I have even attempted, by studying animals, to go back to the biological origins of the taste for property, and to show that this appetite is connected with the most primordial of instincts, common to man and the superior animals, the instinct of preservation. The tendency of appropriation is then, in its essence, directly opposed to altruism. To reconcile them this tendency has to be idealised, that is to say, to become socialised; this is what has happened in primitive societies, and it could not be otherwise. The first men were both ill supplied with natural weapons and relatively intelligent; it was necessary that they should become sociable. For existence and for defence they had to group themselves in small hordes, and for this it was sufficient that the offspring should remain near their parents. Man simply acted, beneath the brutal whip of necessity, as many animals, especially apes, act.

In these hordes of savage humanity, living almost exclusively by hunting, and perpetually fighting for existence with wild beasts and rival hordes, everything was at first held in common, especially the property of the hunting-ground, which always had to be defended against competitors. The first private property was in objects forming, so to speak, part of the person, such as weapons and ornaments, made by the possessor himself, and, as we have seen, generally put into the grave with him. The origin of personal appropriation seems, then, to have been an industrial effort. This tendency to assimilate and confound with the personality certain objects which had been created by the individual ended by including the beings whom he had carried away or conquered: the women captured from neighbouring hordes, and slaves, when for purposes of utility the vanquished enemy had been spared. From that time the right of private property was established, and it slowly grew in the course of social evolution.

We must attribute to the taste for property the formation of the family and its differentiation from the clan. In the anarchic horde the women, seized more or less violently by the strongest, subjected to a sort of regulated promiscuity as the clans became organised, were finally allotted to certain men, and from that moment affiliation and the degrees of consanguinity became of importance. But for a long time the primitive family shared in the confusion of the communal clan from which it was derived; it was very large and formed a sort of miniature clan.

This segmentation of the horde or tribe into clans, then of the clans into numerous families, would lead to the parcelling out of property at first indivisible. Other innovations followed this movement, above all, the discovery and development of agriculture.

Even during the primitive period in which savage man lived chiefly on the results of his hunting or fishing, he did not disdain the fruits, roots, or edible vegetables, the search for which was left to women. From that to the idea of multiplying useful plants there is but a step, but it was a step which humanity needed thousands of years to take. It is not impossible that this great revolution was specially due to women, who alone were primitively charged with the collection of wild fruit, and to whom for a very long time all agricultural work was exclusively left. But agriculture developed in an extremely gradual way. We have seen that it was at first very limited and very unskilful, and little importance was attached to it. This insignificant and temporary subtraction from the vast hunting territory injured no one, and as it usually necessitated a preliminary clearing in the forest, very painful to perform, the first clearers were without doubt allowed the use, not indeed of the land temporarily used by them, but of the slender produce which they drew from it. All this, however, favoured the development of both personal and family property.

The domestication of certain animals, partly simultaneous with the beginning of agriculture, acted in the same direction, and seems to have led to a clear distinction between personal property and property in the soil. Domestic animals constituted a value which could be acquired, accumulated, and lost; which could, in short, change hands with great ease. Such wealth was very movable, increasing of itself, thus distinct from the territory held in common by the community. The taste for commerce also developed with the possession of numerous flocks; often indeed different species of animals became a living money. Finally, certain domestic animals were used in agricultural work, and the discovery of the art of manuring rendered less necessary a varied succession of crops, or the leaving of land fallow. From that moment there existed true agriculture, occupying a permanent and ever-increasing part of the territory; hunting became an accessory, and subsistence was chiefly obtained from the fields and the flocks.

It then became necessary to regulate the right of landed property. In this the same course was followed everywhere and among all races. At first the soil was cultivated in common; then, in order to satisfy the tendency towards individualism, recourse was had to periodic allotments, the usufruct of a determined plot being given to each family during a variable period of time, which always tended to become longer.

Once entered on this path, it was impossible to stop. Always endeavouring to become less dependent on the clan, families at first claimed as permanent property, transmissible to their descendants, the land on which was constructed their habitation and the little enclosure attached—the Salic land of the Germans. To this little plot of land withdrawn from circulation they often added acquisitions, clearings in the neighbouring forest, in the midst of which the villages were, so to speak, swamped. Over these lands the community was content to exercise eminent domain, taking them back in case of abandonment or forfeiture, and regulating the transmission.

From that moment the primitive clan of hunters became an agricultural group—a village community. Nevertheless, the members of this small society always retained the pretension and the belief that they were descended from a common ancestor, but they were often recruited by the accession of useful strangers. The spirit of these communal co-villagers was still impregnated with moral tendencies engendered by former ages, and great solidarity bound together the members of the group; every one assisted in maintaining the association.

Nothing is more widely spread than this system of village communities. Here and there, in America and in Africa, we have found it either as a survival of a vanished age, or as the forerunner of an age to come. Especially have we noted its actual or historic existence in Malaysia, in Indo-China, in China, in India, in Afghanistan, in Persia, in the whole of ancient Europe, and to-day among millions of Slavs.

The system of the village community represents, in fact, a mode of association both very simple and very advantageous. It is often said by way of proverb that union makes strength, but it is still truer to say that weakness makes union. At the beginning of human societies, when isolation is equivalent to death, men spontaneously form closely united little groups, in which the individual does not separate his own interests from those of his neighbours. They acquire the habit of helping each other; they learn to love each other. During this period, usually of enormous duration, there is formed in the human brain a certain altruism, the instinct of solidarity, which persists for a longer or shorter time as a moral survival in the midst of individualistic ages in which it is only an anachronism.

It was especially the republican tribes which best accommodated themselves to the system of village communities, and most easily preserved it. Aristocratic or monarchic tribes soon submitted to the will and pleasure of their masters, or at all events assigned to them as privileged property a more considerable share. But the chiefs, at first elective, then hereditary, at length transformed their usufruct into property transmissible to their descendants; moreover, they encroached more and more on the woods, the fields, and the communal domain generally. The example came from above, and was tempting; ordinary families followed it, and little by little allotment became definite. Each family had its own property, which, in its turn, was parcelled out by inheritance as the family community was dissolved.

This last subdivision of the soil, the final consequence of which was the extreme mobilisation of real property, was, however, impeded in those countries in which the feudal system became organised. There, in fact, the sovereign having claimed the eminent domain, only ceded it to his vassals as fiefs, in principle merely for life, and in exchange for definite services, especially military services. When the fief finally became hereditary, the right of primogeniture naturally resulted from the position of the vassal with regard to his suzerain, but this right was by no means that which it became later—a gratuitous privilege. In its turn the feudal system of property was itself undermined by the slow but constant progress of individualism.

In short, wherever the evolution of the right of property went through all its phases, the primitive notion of communal property was effaced; individual self-interests entered into competition, and in one way or another, by force or by cunning, great landlords were brought into existence, cultivating their domains either by slaves or by hired labourers, or by rent-paying farmers. Inequality of fortune became from that time enormous, and was further favoured by the progress of commerce and industry, which necessitated the creation, to an enormous extent, of accumulable values held in trust. Such was the general distribution of property in classic antiquity during the period of decadence.

By bringing together and combining historic notions and ethnographic documents we obtain a view of the whole evolution of property since the origin of human society, and we see how and why the most glorious civilisations preceding ours have been submerged. There are some, like that of China, which have remained in an intermediate stage. But among those which have run through the complete cycle we note that their destiny has strictly corresponded to their organisation of property.

At first they were born and developed beneath the shelter of the communal clan, then of the village community, guaranteeing all its members against abandonment, but permitting no one to monopolise what belonged to all. Under such a system population everywhere abounds; the increase is enormous, and generally it overflows into neighbouring countries. In Russia, for example, the system of the *mir* impels to marriage and is opposed to Malthusianism, because each family has a right to a larger portion of land the larger the number of workers it contains, and the most numerous family is in consequence the richest.[1] Thus no country of Europe shows so many marriages as Russia, and none has so high a birth-rate. It is almost double that of France,[2] and from the point of view of the future of the two nations, the consequence is easy to infer. All great nations have had such a youth.

We have seen how, as security increased, property has become more individual and movable, and there has been formed what economists call "capital," that is to say, a mass of accumulable values representing work, it may be but potential work, work independent of the worker, the faculty of making others work. When this economic transformation was sufficiently accomplished, in classic antiquity for example, a new kind of social selection came into play, selection by and for money, for capital. This selection was rarely to the profit of the most noble morally, or the most elevated intellectually; as a rule, it gave the advantage in the social struggle to the most rapacious, and not alone to him, but to his descendants, since, the fortune once acquired, it little mattered how, it could be transmitted by inheritance. Now Maudsley,[1] an English alienist who is at the same time an eminent thinker, teaches us that the extreme passion for getting rich, absorbing the whole energies of a life, predisposes to mental degeneration in the offspring—either to moral defect or to moral and intellectual deficiency. It was certainly so in the ancient world. Little by little the small proprietors were dispossessed, reduced to the condition of hired labourers working on the *latifundia* of the great proprietors, at the same time as by commercial and industrial speculations, by the traffic in slaves, by usury and stock-jobbing, enormous fortunes were being amassed in a small number of hands.

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[1] Leroy-Beaulieu, *Empire des Tzars*, i. 580. [2] *Ibid.*, i. 500.

Finally, in the last days of independent Greece, and afterwards in imperial Rome, a condition of striking social inequality existed. On one side a small minority held the greater part of wealth; on the other was an enslaved and degraded crowd. The first, usually inclined to subordinate the general interests to their own particular interests, cared nothing for the common country, which for the rest was no longer common; the others, the disinherited, had nothing to defend, and at most ran no other risk than that of changing masters. The conqueror, barbarous or not, could not fail to appear; he intervened always wherever great wealth was amassed in the hands of a population incapable of defending it.

Thus perished all the vanished civilisations. Of all the civilisations that have arisen and flourished, says Henry George, there remain to-day but those that have been arrested, and our own, which is not yet as old as were the pyramids when Abraham looked upon them.[1] It now remains for us to ask what is from the point of view of property the condition of our contemporary civilisation, and to what stage of evolution it has reached. Then we will attempt to foresee if it also must undergo the tragic fate of former civilisations.

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[1] *Physiology and Pathology*, etc., 235 (London, 1868).

II. *Property in Contemporary Europe.*

A gradual allotment of the primitive common domain, then an inverse movement involving the concentration of these allotments in the hands of a small number of large proprietors: this is the general formula of the evolution of property. The communal system is destroyed by the individualistic instinct; then the great eat up the small; whence languor, sickness, and death of the social body. It has been thus with the nations which have run through all the phases of their historic existence.

In Europe, on the ruins of the Roman empire, feudalism reconstructed a new order of things which for a certain number of centuries impeded the movement of property, creating a social condition which was iniquitous no doubt, but relatively stable. We have already seen how in 1789 the heavy feudal edifice totally fell in France, while only fragments remained in the other countries of Europe. From the point of view which here occupies us, the principal result of the great movement of 1789 was the complete mobilisation and emancipation of property, the almost complete assimilation of real property to personal property. Feudal property was accompanied by heavy responsibilities. Thus, after the Norman Conquest, English proprietors only held their fiefs on the condition of furnishing, if required, sixty thousand men, well armed and equipped, without prejudice to other services, such as *plaigerie* and *aides*—that is to say, security and contributions when the suzerain declared that he had need of money.

The modern landlord, beyond the payment of certain taxes of which he is aware when buying the land he holds, owes nothing to the State which guarantees possession to him; yet he holds the soil and subsoil, with the right of use and abuse in all its fulness. As regards personal goods, the right of property is still more emancipated. Certain personal belongings of the most important kind are even free from any burden, and it is legal to retain personal goods worth any sum that one likes, without the community requiring from the possessor any tax or service. This absolute power is even considered as the most sacred of rights, and most articles of our modern codes have been drawn up with the aim of guaranteeing the tranquil possession and regular transmission of property thus understood. In a preceding work I have spoken of the mercantile morality that naturally results from this order of things. The palm is offered not to the best—that is, to the individuals most endowed with intelligence and character—but to those who, in one way or another, and even by skilfully manœuvring between certain awkward clauses of the law, succeed in amassing great fortunes. From this brutal and extreme individualism must inevitably result the concentration of property in a small number of hands, whence the formation of a constantly increasing proletariat.

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[1] *Progress and Poverty*, 374 (London, 1884).

The actual condition of landed property, especially of its distribution in Europe, clearly shows this. In England the great proprietors have, finally, almost completely expropriated communal property and absorbed the small proprietors. This absorption, begun in usurpation and violence, is continued to-day by purchase; for legal expenses are so considerable in England, that only great capitalists are rich enough to make small acquisitions. In short, the combined effect of the abuses of the past and the present has resulted in England in the ownership of certain counties passing into the hands of five or six persons.[1] Thus the half of England belongs to one hundred and fifty individuals; the half of Scotland to ten or twelve. For many years the English press has been occupied with the struggle in the Island of Skye between the expropriated crofters, thrown as it were into the sea, and the landlords who transform their fields into shooting preserves, without regard to the agriculturist. Facts of the same kind may be adduced from other parts of Scotland. Thus, forty families of farmers possessing a large number of sheep and cattle were expelled by the grandfather of the Marquis of Huntly. At the expiration of their leases the tenants were evicted, houses were demolished, and the land given up to hunting purposes, exactly as in the time of William the Conqueror.[1] It is unnecessary to refer to the actual condition of Ireland, and the savage struggle there between landlords and tenants. In Germany and in Austro-Hungary the official statistics also show the progressive disappearance of the small proprietors, especially in the Southern Tyrol, Bohemia, and Rhenish Prussia. In Lorraine also the process of subdivision has been followed by individualistic concentration.[2]

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[1] E. de Laveleye, *De la Propriété*, 141, 142.

In France the current but not usually verified opinion is that the Revolution destroyed for ever great properties. But it is forgotten that small properties existed on a fairly large scale in ancient France. Since then a double movement has taken place; on the one hand the extreme parcelling of small properties, on the other the maintenance or reconstruction of large properties. If we analyse properties in France we find that very small properties (from zero to 5 hectares) are represented by 11,000,000 hectares, and are in the hands of 6,000,000 owners; small properties (from 5 to 10 hectares) include 6,000,000 hectares to 529,000 proprietors; while medium-sized properties (from 10 to 50 hectares) include 14,000,000 hectares possessed by 437,000 proprietors, and large properties (from 50 to 100 hectares) 5,000,000 hectares for 43,000 proprietors; finally, that very large properties (100 hectares and above) include 12,000,000 hectares to 19,000 proprietors.[3] In disengaging small properties we find that 500,000 individuals possess 32,000,000 hectares out of 49,000,000 submitted to taxation. On the contrary, 6,000,000 inhabitants contend for fragments of 11,000,000 hectares; 240,000 proprietors of 5 hectares themselves cultivate their little domain; 3,400,000 small owners (under 5 hectares) cannot live on the produce of their field, and are for the most part day labourers.[4] We are here far from the system of very small properties supposed to have been inaugurated by the Revolution. On the other hand, it seems that large properties are increasing, since the rural population is decreasing. In 1831 it was nearly 26,000,000; in spite of the increase of population, it is now only 24,600,000.[1] In certain regions the rural population is rapidly decreasing. Normandy has lost in fifty years more than half a million inhabitants.

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[1] *Fortnightly Review*, 1873.

[2] Meyer et Ardant, *Question agraire*, 9.

[3] F. Maurice, *Réforme agraire*, 71, 72, 73.

[4] *Ibid.*, 65.

A picture of town properties, including houses and workshops, is also far from indicating a democratisation of property. This kind of immovable property is in the hands of 1,300,000 persons, 700,000 of whom hold the habitable property. The existence of 250,000 houses only having a single aperture, and of more than 3,000,000 only having two or three, shows that a large part of the population are living in a state of poverty bordering on wretchedness.

But while the rural population has become thinner, that of the towns is ever increasing; it was under 7,000,000 in 1831; at present it is over 13,000,000.[2] The reason of this progressive crowding of the population in towns is well known; it is the development of industry, especially of large industries, and of our industrial system. In 1851 more than 6,000,000 persons were directly employed in France in industrial occupations.[3] In 1876 the industrial population was over 9,000,000.[4] The same facts, in a more marked form, may be found in other and more industrial countries. The agricultural population only represents 12 per cent. in the United Kingdom, 16 per cent. in Holland, while it is 77 per cent. in Italy, and 85 per cent. in Russia.[5] I have elsewhere[6] spoken of the evils inherent to the modern system of industry, the enormous and always increasing numbers of paupers, the increase of suicide, of drunkenness, of mortality among the industrial classes, the lowering of stature, the gradual slackening in the increase of population; I will not return to the subject.

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[1] F. Maurice, *loc. cit.*, 285.

[2] *Ibid.*, 285.

[3] M. Block, *Statistique de la France*, ii. 115.

[4] A. Legoyt, *Le suicide.*

[5] M. Block, *loc. cit.*, 96.

[6] *L'Évolution de la morale.*

But from this complete transformation in the modes of activity of human forces has resulted the creation of personal property representing an enormous capital. In France alone the capital constituted by stocks and bonds reaches forty milliards; but there is also the national debt and about two milliards placed in foreign stocks; making altogether a mass of about seventy milliards most inequitably distributed in a small number of hands. It is the same in all civilised countries, especially in the most industrial countries.

As a necessary compensation, the number of persons deprived of all property is always increasing. In France a million and a half of paupers participate in the benefits of relief; four hundred thousand invalids are cared for in the hospitals; seventy thousand old and infirm persons live in almshouses; there are seventy thousand foundlings. Finally, the prisons lodge four hundred thousand individuals.[1] Without doubt it is necessary that every population should have its refuse element, but it is terrible to find it amounting to so enormous a figure, and when it is also remembered that about a fourth of our young men are declared from some infirmity to be unsuited for military service, and that our birth-rate is always decreasing, predicting for us the ruin that befell Greece and Rome, the future of our modern world, so proud of its civilisation, is not altogether reassuring. The Roman world perished through large properties, slavery, and colonage: will ours succumb to the wage-system?

In France twenty-five thousand workers, themselves and their families, live on a sum of six milliards out of an agricultural and industrial production of twenty milliards.[2] Doubtless, in this vast class of salaried persons of every kind, there are a minority who lead a more or less easy existence, but the mass, having no resource but manual or hired labour, are often more forlorn than ancient slave or feudal serf; for the masters, themselves spurred by competition, obliged to produce as much as possible and as cheaply as possible under pain of loss and ruin, too often neglect every consideration of humanity. I could mention manufactories where work goes on for thirteen consecutive hours without any time of rest even for meals, in a high temperature and vitiated atmosphere. In Austria, and now in America, some workshops have become veritable convict prisons, which the workers never leave. They eat there and sleep there, often on the ground. In a very large French workshop which I have visited, the wages of the puddlers are two shillings a day; they hold out for about two years, and are recruited without the least difficulty. I mention these facts simply as specimens, having no space to multiply them.

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[1] F. Maurice, *Réforme agraire*, 115.
[2] *Ibid.*, 82-87.

To speak generally, it is too true that modern civilisation is becoming more and more a mercantile civilisation, in which social position, choice of a profession, manner of life, marriage, even the duration of existence has become a question of money, in which a ruling class has grown up not less powerful than the old aristocracy, and social influence is based solely on money. This new aristocracy has full consciousness of its power, and often boasts of it with extreme insolence. Working men, as an English writer said in 1770, should never consider themselves independent of their superiors; it is extremely dangerous to encourage such an infatuation in a state like ours, in which perhaps seven-eighths of the population have no property.[1] This is the opinion, with rare exceptions, of the class among us who are favoured by fortune. Well or ill acquired, gained or inherited, money in our contemporary civilisation seems to hold the place of all the virtues. Carlyle said that the hell the English most fear is poverty; but this new kind of religious dread is not peculiar to England. All countries civilised in the European way suffer more or less from the same terrible disease; they will surely die of it should it become aggravated. Pessimistic prophets already affirm that this end is inevitable, that a fatal law of social evolution so wills it. I will quote the most affirmative of them: "By the fact of selection and the fatal law of the extinction of privileged races nations become civilised, mount to the summit of greatness, then rapidly decline and disappear, worn out and exhausted, to fall back into barbarism and to be replaced by younger races, that is to say, races among whom the selection of talents and energies is scarcely established, and whom it has not yet exhausted."[1]

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[1] Karl Marx, *Capital*, 261, 262.

If we limit ourselves to stating the rough results of historic evolution without taking the trouble to disentangle its causes, these Cassandra-like prophecies seem reasonable. It is certain that all the great states of the past, all the centres in which civilisation was elaborated, have disappeared in miserable extinction, though leaving behind them a certain number of discoveries profitable to humanity as a whole. As a general rule, the civilised of one epoch have had for successors barbarians, who, in their turn, have become civilised and then perished. But how have all these great states succumbed? By their own fault, by their vicious economic organisation. To pretend that their ruin is the result of intellectual overstrain is truly to play on our credulity. They have died in consequence of an organisation of property fatal from a social and moral point of view, by the triumph of egoism over altruism.

The long investigation carried out in the preceding chapters proves abundantly that societies, even if not very intelligent, advance in strength and in number so long as they accept a system of solidarity; that they languish and decline through excess of individualism. In the best days of Greece the population of the little republics swarmed so vigorously that Aristotle gravely proposed to repress this excessive increase by legal abortion.[2] On the other hand, during the period of decadence, Greece died for want of men. Humanity only asks to increase; it was, indeed, the energetic power of reproduction which frightened Malthus. Even to-day, in spite of an economic system in which everything seems to combine to prevent an excess of population, we see that a series of prosperous years is enough to increase very largely the number of marriages and of births.[3]

The barbarians did not destroy Rome; they only dismembered its corpse. The division of the soil into large properties, monopolised by an egoistic minority, the replacement of independent citizens by slaves and servile *coloni*, had previously dried up the source of Roman vitality. Now, in our modern states, a social retrogression of the same kind is at work; it differs only in method; at bottom it is almost identical. Among all contemporary nations civilised in the European way an ever-increasing number of individuals have no right whatever to the native soil except that of walking on the public roads. If nothing happens to amend this state of things, or at all events to impede its progress, it is very possible that European civilisation will have the lamentable end of all those civilisations which have preceded it. It will die of its own vices, or will succumb beneath the shock of barbarians from without or from within. But is this result inevitable? By no means. Social phenomena have not the rigour of astronomic phenomena. It largely depends on man to modify them; nations may create their own destinies.

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[1] P. Jacobi, *Études sur la sélection*, etc., 535.

[2] *Politics*, lib. vii. 14.

[3] Adolphe Bertillon, article "Mariage" (*Dict. encyclop. des Sciences médicales*).

III. *The Future of the Right of Property.*

If then European civilisation is to endure and to progress, it will have to reform the institution of property and to restrain abuses. The system of property is the mainspring of all social life. It should not therefore be touched except with extreme prudence; but it cannot be questioned that society has the right to modify it in its own general interests. Many moderate, even timorous, writers have proclaimed this right. I will make a few quotations regarding this point. Let us begin with Catholic authors.

"The earth," said St. Ambrose, "has been given to men in common. Why, O rich men, do you arrogate property to yourselves alone?" "O rich men of to-day," said Bossuet, "if we go back to the beginning of things, we shall perhaps find that the poor have not less right than you to the goods you possess." Let us now listen to laymen, first of all to the French. According to Leroy-Beaulieu, "the landed proprietor is in a way the tenant of society taken as a whole, and owes services to it in exchange for the use of the natural forces which he has appropriated."[1] "The right of property," says Laboulaye, in a writing crowned by the Académie des Inscriptions et Belles-lettres,[1] "is a social creation. Every time that society displaces the inheritance or the political privileges attached to the soil it is within its rights, and nothing can be said against it, for before and outside society there is nothing; it is the source and origin of right." Let us now hear H. Martin, in his *Histoire de France*,[2] a work crowned by the Académie Française: "The appropriation of the soil does not constitute an absolute and unconditional right. . . . Just as a nation which occupies a region of the earth has duties towards the human species, so private landlords have duties towards the nation, and towards those who are not landlords. . . . They owe to the nation a part of their revenue, and to their fellow-citizens who are not landlords such means of work and of existence as indirectly restore to the disinherited a part of the common inheritance." A number of other thinkers join in the chorus. "Equity," says Herbert Spencer, "does not permit property in land. For if one portion of the earth's surface may justly become the possession of an individual, and may be held by him for his sole use and benefit, as a thing to which he has an exclusive right, then *other* portions of the earth's surface may be so held; and eventually the *whole* of the earth's surface may so be held: and our planet may thus lapse altogether into private hands. Observe now the dilemma to which this leads. Supposing the entire habitable globe to be so enclosed, it follows that if the landowners have a valid right to its surface, all who are not landowners have no right at all to its surface. Hence such can exist on the earth by sufferance only. They are all trespassers. Save by the permission of the lords of the soil, they can have no room for the soles of their feet. Nay, should the others think fit to deny them a resting-place, these landless men might equitably be expelled from the earth altogether."[3] Fichte and Laveleye tell us generally what the right of property should become: "Property," predicts the first, "will lose its exclusively private character to become a real public institution. It is not enough to guarantee to every one property lawfully acquired; it is necessary that every one should obtain the property which he is entitled to in exchange for his lawful work." According to Laveleye, we must realise this higher maxim of justice, "to every one according to his works," so that property may be really the result of work, and the well-being of each be in proportion to the help he has given in the work of production. "To-day," he continues, "property has been deprived of all social character; completely different from that which it was at its origin, it has now nothing collective about it. A privilege without obligations or fetters, it seems to have no other end than to assure the well-being of the individual. . . . The net produce of the earth is now absorbed by the consumption of individuals who themselves contribute in no way to the progress of the nation."[1]

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[1] *Théorie de la science des finances.*

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[1] *Histoire du droit de propriété*, etc.

[2] Tome xxvi. 79, 80.

[3] H. Spencer, *Social Statics*, ch. ix., sec. 2.

Beneath the shelter of these quotations, borrowed not from demagogues, but from writers of calm, moderate, even conservative temper, one may ask what measures modern nations should take to avert the catastrophes which threaten them. Their right is incontestable, and certain of them already use it; England, for example, who not long since, at a single stroke, made an enormous reduction in the rents of the Irish landlords. Although the evil to be fought may already be felt, it is not yet incurable; we are not yet in the condition of declining Rome. We may still use gradual methods, and those are the best. It is indeed foolish to wish to transform with one stroke of the wand the great institutions which are the basis of society—the family and property. Time and moderation are necessary. For the rest, violent revolutions are like amputations: we may be forced to submit to them; we cannot aspire to them.

I have elsewhere suggested that there are rhythms in social evolution, that sometimes societies seem to turn to their point of departure, but that these returns are never servile copies of the past; they are idealised imitations. The contemporary world is suffering from an excess of individualism; it must return to a system of greater solidarity; but only unenlightened thinkers could dream, for us or our descendants, of societies modelled on the despotic and centralised communism of ancient Peru, or even on the Slav *mir*. These social forms have perished or are disappearing, precisely because they impose too many fetters on the individual. Every reform which imitates them in this is condemned beforehand. What must be established is a system of solidarity, no doubt, but one which gives a legitimate place to individualism, even to competition, which keeps a community from the lethargy into which India and China have fallen.

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[1] *De la propriété*, xii., xx.

The ideal society, the republic of Utopia, would offer to all its members equal chances on their entry into life; every one would be able to develop himself freely according to the measure of his faculties; while respecting individual liberty, support would be given to the weak; every unjustifiable privilege would be abolished, and every one would occupy a place strictly in accordance with his degree of social value. But to constitute such a condition of things the community ought to have enormous resources at its disposal, and could only obtain them on condition of using largely its right of eminent domain. In what measure and in what manner?

While respecting all acquired rights, even ill-acquired rights, the community might, when it seemed good, effect all the resumptions which it might judge necessary, simply by graduated measures during long terms, and having special regard to the future. It is thus that in Brazil in 1871, in order to abolish slavery without revolution or social war, a law was passed declaring free all children who should henceforth be born of slave parents. Seventeen years alone of this transitory system were sufficient to produce, without any shock, the complete emancipation of the servile class.

Our legislation is still impregnated with Roman law, and its provisions with regard to inheritance are by no means in harmony with our social condition. In the time of the great Latin family, of the *gens*, it was quite reasonable to regulate the laws of inheritance according to degrees of consanguinity, to recognise co-proprietors by right of birth, and in their absence to allow the domain to pass to the *gentiles*, remote relations no doubt, but members of the family community. The *gens*, the family clan, has been dissolved; our modern family only includes seriously the father, mother, and children; nevertheless, our code continues to recognise the right of inheritance of relations to the twelfth degree; in short, the *gentile* inheritance has survived the *gens*. Without doubt, so long as our societies are almost completely indifferent to the individual fate of their members, the family, however restricted, ought to be respected; it is the individual's only real shelter, and ought to be able to preserve and transmit its property. However inequitable and unjust this distribution may be, it is still better than none.

It ought to be otherwise in the Utopian society which one may be permitted to foresee when contemplating our slow progress towards a necessary transformation. This future society should in very large measure assume the duties more or less fulfilled to-day by families, such as educating children whom the family is unable or unworthy to educate. It ought also to be able to supply capital in order to start in life any one who is able to offer certain moral guarantees; it ought to guarantee to the forlorn a sufficient existence, so that a life of labour should never end in misery. To accomplish all this, as I have elsewhere said,[1] vast pecuniary resources are indispensable. The reform itself ought to evolve them. Mill, who was by no means revolutionary, proposed to reduce inherited property to a modest maximum; in this path one may go still further. By the establishment of succession duties the State constantly attacks property. These duties, the most legitimate of all, should be progressively raised and graduated according to the amount of the inheritance. If the scale were wisely adopted through a long series of years, this progression would enable us to reach without disturbance the almost total abolition of inherited property. At the same time it would be scientifically possible, by taking counsel of experience, to provide for the social needs resulting from this great reform, in comparison with which all political re-adjustments are but child's play.

The total annual value of inherited property is enormous, and it is always increasing in almost geometric progression. In France it has quadrupled since 1826, almost tripled since 1851, doubled since 1860, and increased by forty-five per cent. since 1869.[1] In 1885 the total was about five milliards and a half, three being in immovable property.[2] Even a slight augmentation in estate duties would therefore produce an important revenue. A movement of opinion in this direction is gathering force and culminating in legal projects tending to reduce the unreasonable extension of inheritance.

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[1] *Sociologie* (2nd edition), p. 440.

In concluding, I will add that the Utopian system of which I have spoken necessarily excludes all extreme centralisation; it is only applicable in social units of moderate extent, large enough to possess a relatively independent, economic life, small enough for the needs and worth of individuals to be sufficiently known.

Here I stop. My principal aim has been to retrace the evolution of civilisations through the inspiration, especially, of ethnography, and by the accumulation of facts. As concerns the facts, many of my readers will certainly have found that I often fulfil my task too zealously. This method is certainly rather wearisome, but it is necessary. Only through it can a scientific sociology be created. In this volume I have endeavoured to bring together a few stones to aid in constructing the edifice. I have been sober in the matter of theories, and have almost confined myself to formulating the meaning of facts, briefly and without bias. This is the case, though with less reserve, even in the concluding chapter. But after having patiently examined the past and present life of mankind, it should not be forbidden to hazard some inductions relative to its future. As sociology becomes scientific its aim can only be that of all the other sciences: the knowledge which enables us to foresee and to act in accordance with our foresight.

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[1] P. Leroy-Beaulieu, *Économiste français* (quoted in *Revue scientifique*, 9 Avril 1887).

[2] F. Maurice, *Réforme agraire*, 89.

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